

United States Environmental Protection Agency  
OFFICE OF ENFORCEMENT AND COMPLIANCE MONITORING

LDWSF  
10,3,54 vs  
01/06/87

**OFFICIAL USE ONLY**

REPORT OF INVESTIGATION

PIONEER CONSTRUCTION MATERIALS COMPANY

Case # 86-X-4-4 Project 34W

January 6, 1987

Prepared by:

Gerd R. Hattwig  
Special Agent

NATIONAL ENFORCEMENT INVESTIGATIONS CENTER  
OFFICE OF CRIMINAL INVESTIGATIONS  
Seattle Area Office  
1200 6th  
Seattle, WA 98101

USEPA SF



1316337

TABLE OF CONTENTS

	<u>PAGE</u>
I. INTRODUCTION AND SIGNATURE PAGE	1
II. STATUTORY VIOLATIONS	2
III. PERSONAL HISTORY OF DEFENDANTS	3
IV. ENFORCEMENT & REGULATORY HISTORY	5
V. DESCRIPTION OF EVIDENCE	5

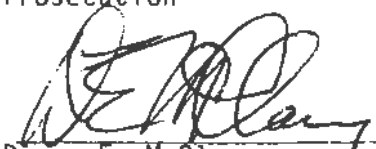
ENVIRONMENTAL PROTECTION AGENCY  
NATIONAL ENFORCEMENT INVESTIGATIONS CENTER  
OFFICE OF CRIMINAL INVESTIGATIONS  
SEATTLE AREA OFFICE  
1200 Sixth Avenue  
Seattle, Washington, 98101

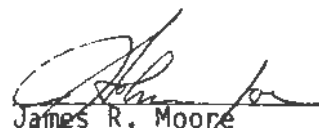
DATE

Criminal Case File Number: 86-X-4-4

Report Examined, Approved  
& Recommended for  
Prosecution

Project Number: 34W

  
Dixon E. McClary  
Special Agent in Charge

  
James R. Moore  
Regional Counsel, Region 10

Gene S. Anderson  
U.S. Attorney  
Western District of Washington  
3600 Seafirst Fifth Ave. Plaza  
800 - 5th Ave.  
Seattle, WA 98104

Introduction

This report is submitted in regard to alleged violations of the Federal Water Pollution Control Act (CWA) and the Rivers and Harbors Act of 1899 within the Western District of Washington by Pioneer Construction Materials Company, a division of Riedel International Inc., and certain of its employees. The alleged violations include the discharge of pollutants such as concrete contaminated wastewater and solid concrete waste, into the Duwamish River and into Lake Union without an NPDES permit from the EPA and/or Washington State Dept. of Ecology. Ancillary violations of the U.S. Code may include conspiracy and false statements to regulatory agencies. This matter is being referred to the office of the U.S. Attorney for prosecution or further development with the assistance of the federal grand jury. This investigation has been discussed with Assistant U.S. Attorney, Jackson Fox.

## II. STATUTORY VIOLATIONS

1. 33 USC 1311(a) [FWPCA-Sec.301] - This section states that any discharge of any pollutant by any person except in compliance with specific sections of this title shall be unlawful. Criminal penalties are provided in 33 USC 1319(c)(1) for this violation.
2. 33 USC 407 [Rivers & Harbors Act of 1899] - provides that it shall not be lawful to throw, discharge --- out of any ship, barge or floating craft or from the shore, wharf, manufacturing establishment or mill of any kind any refuse matter of any kind or description --- into any navigable waters of the United States ---. 33 USC 411 provides criminal penalties for violations of Section 407.
3. 18 USC 1001 False Statements - Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.
4. 18 USC 371 Conspiracy - If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined not more than \$10,000 or imprisoned not more than five years, or both. If, however, the offense, the commission of which is the object of the conspiracy, is a misdemeanor only, the punishment for such conspiracy shall not exceed the maximum punishment provided for such misdemeanor.

### III. PERSONAL HISTORY OF DEFENDANTS

#### A. Corporation

1. "Name: Pioneer Construction Materials Company (a division of Riedel International Inc.)
2. Address Headquarters (Duwamish River Facility)- 5975 East Marginal Way S.  
Seattle, WA
3. Defendant facility:
  - a. Lake Union Facility - 901 Fairview Ave. North  
Seattle, WA
  - b. Duwamish River facility--address contained in #2 above
4. Parent Corporation: Riedel International Inc. - P.O. Box 3320  
Portland, OR
5. State of Incorporation: Riedel International Inc. 12/21/37 - Oregon  
(subsidiary of Riedel Resources Inc., Portland, OR)
6. Registered Agent: Unknown
7. In 1984 Riedel Resources was formed and in 1985 was reported to be the holding company of Riedel International Inc. Riedel International Inc. is involved in heavy construction, dredging, sand, gravel, concrete, towing and barge lines; employs between 1000-2000 people and has reported sales of \$200,000,000 according to Dun and Bradstreet report dated 7/15/86. Riedel International Inc. is also involved in providing environmental services through Riedel Environmental Services Inc., a subsidiary. In 1983, EPA awarded Riedel International the Emergency Response Cleanup Services (ERCS) Contract, covering all "Superfund" sites west of the Mississippi including Alaska, Hawaii and the U.S. Trust Territories. The Environmental Services Div. of Riedel International was chosen as the sole emergency response organization for all remedial action involving hazardous waste material. Riedel International Inc. controls a number of other subsidiaries including Pioneer Construction Materials Co. and has offices at the following locations:  
Portland, OR  
San Francisco, CA  
Richmond, CA  
Long Beach, CA  
Seattle, WA  
St. Louis, MO  
Honolulu, HI  
Montreal, Quebec  
Vancouver, BC  
Hamilton, Bermuda  
Rio de Janeiro, Brazil  
Foz do Ignacu, Brazil  
Mexico City, Mexico  
Wake Island (job office)  
Steilacoom, WA (sand and gravel plant)

As of 7/15/86 the corporate officers of Riedel International Inc. were listed as:

Arthur A. Riedel, Chairman of the Board  
Ronald G. Witcosky, President  
Joseph R. McGuinn, Executive Vice-President/Secretary  
Vernon C. Scott, Executive Vice President  
Jamshed Dastur, Executive Vice President  
Robert E. Westermann, Exec. Vice President  
Robert Bittner, Vice President

Arthur A. Riedel is also the only director listed.

As of 12/31/83 Riedel International assets were listed as \$51,991,351 with a net worth of \$17,625,931 and sales of \$152,988,553. On December 29, 1985 Riedel Environmental Services Inc., a subsidiary of Riedel International Inc., was considering a public stock offering in 1986 to provide for additional growth. Assets were reported at \$60,000,000. The public offering was supposed to raise about \$20,000,000.

Pioneer Construction Materials Co. is a division of Riedel International, headquarters in Portland, OR. This division employs about 400 people in the Seattle/Tacoma area. James Repman is president of Pioneer. Pioneer sells retail building materials to the public, but also operates four concrete mixing plants and a fleet of cement mixer trucks in the greater Seattle/Tacoma area.

#### B. Individuals

1. Name: James A. Repman
  2. Title: President, Pioneer Construction Materials Co.
  3. Residence: 4625 136 SE, Bellevue, WA
  4. Residence telephone: 206-746-7591
  5. Work Address: 5975 E. Marginal Way S., Seattle, WA
  6. Criminal Record: None known
- 
1. Name: Ronald E. Summers
  2. Title: Operations Manager, Pioneer Construction Materials Co.
  3. Residence: 2215 80th SE, Mercer Island, WA
  4. Residence phone: 206-236-1523
  5. Work Address: 5975 E. Marginal Way S., Seattle, WA
  6. Criminal Record: None known
- 
1. Name: Robert E. Tea
  2. Title: Foreman-Operations, Pioneer Construction Materials Co.
  3. Residence: 1416 Mason, Puyallup, WA
  4. Residence phone: 206-863-1675
  5. Work address: 5975 E. Marginal Way S., Seattle, WA
  6. Criminal record: None known

#### IV. ENFORCEMENT HISTORY

Pioneer Construction Materials Co. is not known to have been the subject of any EPA enforcement actions. The Washington State Dept. of Ecology (WDOE) conducted an inspection on May 1, 1986 of the Duwamish plant which resulted in a WDOE request that this facility apply for an NPDES permit. This request, a letter dated May 2, 1986, included an NPDES permit application form and instructions on how to complete same. Pioneer responded that they would have no discharges to the Duwamish River and would not be applying for an NPDES permit. The EPA enforcement history for Riedel International Inc. throughout the U.S. is not known; however, one of its divisions, Riedel Environmental Emergency Services Co., is the current EPA Superfund cleanup contractor in the western United States.

#### V. DESCRIPTION OF EVIDENCE

The evidence in this case consists basically of observations by private citizens and surveillance by EPA Special Agents over a period from May 1986 through December 1986. These observations are corroborated by photographs and videotape recordings and will be supplemented by laboratory analyses of environmental samples taken during the period of discharges. Laboratory analysis of the samples confirm that they are a "pollutant" under the Clean Water Act and a characteristic hazardous waste (CFR 261.22-corrosivity) under the Resource Conservation and Recovery Act. Analyses of samples and documents seized during the execution of federal search warrants on 9/3/86 and 10/9/86 on the Duwamish River and Lake Union facilities respectively are not complete and therefore have not been fully evaluated for all their evidentiary potential.

In summary, Pioneer discharges large amounts of wastewater from its two large concrete mixing plants located on the Duwamish River and Lake Union. Most of this wastewater is generated by the need to wash out, at least once every day, every concrete mixer truck operated by this company. The samples of wastewater discharged into the Duwamish and Lake Union during the surveillances were analyzed by the EPA Lab at Manchester, WA and are reported to have a pH greater than or equal to 12.5. This extreme alkalinity is a common by-product of concrete chemical constituents, which is the reason that effluent guidelines have been promulgated by EPA for discharges from concrete plants. EPA studies show that concrete plants complying with the law commonly recycle wash waters into new batches of concrete or use acids to neutralize alkalinity of wastewaters.

Both the Duwamish and Lake Union plants are equipped to recycle sand, gravel and wastewater and, at times, have done so in the past. Both plants are plumbed for a connection to a local sewage treatment plant, the Municipality of Metropolitan Seattle (Metro). Both plants once had valid permits to discharge their excess wastewater to the METRO sewers. However, these systems were not maintained properly and were allowed to deteriorate. As a result, no wastewater was discharged for a number of years to the METRO sewers, until about 12/1/86. On or about 12/1/86 the Duwamish plant started discharging to the METRO sewer again.

At the Duwamish River facility the discharges appear from a variety of locations. The latest such discharge was observed on 8/27/86. Typically, wastewater was discharged through an opening in a cement wall along the river's edge. This opening, a hole in the cement wall, was covered with a loose fitting metal cover plate about 1 ft. square, which appeared to be more for concealment purposes than for blockage, because on numerous occasions surveillance agents have seen a steady stream of concrete wastewater splashing off the plate and running down the concrete wall and into the Duwamish. From a distance this metal plate with a bolt through its center appears to an anchor in the bulkhead. During the discharges a distinct cloud in the river water occurred from the concrete chemicals and the wall was stained gray from the obvious consistent discharges.

The Lake Union Pioneer facility was not considered initially for investigation because there were no complaints about illegal discharges and record checks indicated that this facility had an active METRO permit to discharge wash wastewater into the sewer.

On 10/6/86 files provided by METRO regarding Pioneer Construction Materials Co. disclosed that Waste Discharge Permit No. 7181 was issued to Lone Star Industries, Inc., on June 2, 1981 for their plant located at 901 Fairview Ave. North, Seattle, WA. The permit was transferred in April 1984 to Pioneer Construction Materials Co. The expiration date for this permit was June 2, 1986. The permit allowed this plant to discharge up to 4000 gallons of industrial wastewater and 1500 gallons of sanitary wastewater per day into the municipal sanitary sewer system.

On April 4, 1986 Mr. Bruce R. Burrow, an inspector employed by METRO, conducted an inspection of the Pioneer plant on Lake Union as part of the renewal process for Waste Permit No. 7181. During this inspection, Burrow was accompanied by the plant manager, John White, who told Burrow that the Fairview plant was not currently discharging to the Metro system because the pipes were inoperative, having been broken when a barge ran into the pier in mid-March 1986. According to Mr. White, the piping would be fixed as soon as possible. White also said that in the meantime, if holding ponds became too full, they would be drawn down into trucks and taken to the East Marginal Way plant for use as make-up water. Additionally, Burrow noticed during his inspection that liquid wastewater was discharging from an opening at the northwest end of the second (final) settling tank into Lake Union. Burrow said he pointed out this discharge to White and requested that White close the breach in the wall of the tank as soon as possible. Burrow stated he told White that the WA Dept. of Ecology would issue a citation for this type of discharge because it is illegal. White indicated to Burrow that he would stop the discharge and would take care of this problem. The METRO file also contained a letter dated May 27, 1986 from Pioneer Construction Co. signed by Ronald E. Summers, Operations Manager. This letter was addressed to Burrow and stated that Pioneer planned to close the Lake Union plant in mid-November 1986; that there had been no discharges to the Metro system for two years and that Pioneer did not feel it needed to discharge into the Metro system in the next six months. The Summers' letter indicated that Pioneer did not want to renew the permit at that time and also acknowledged receipt of a draft copy of a new METRO permit. The draft permit included prohibitions against discharges of wastewater in violation of federal and/or state laws and regulations.



In September 1986 agents observed wastewater discharges into Lake Union from the Fairview plant and a metal plate loosely attached to a cement bulkhead (similar to observation at Pioneer's Duwamish facility). Surveillances established that cement wastewater was discharging from a hole in the cement wall covered by the metal plate. This liquid was brownish in color and ran down the cement wall into Lake Union. This plate was about 1 ft. sq. and was held to the cement wall by means of a single metal bolt through the center. Additionally, on 9/15/86 two police officers of the Seattle Harbor Patrol and S/A Hattwig observed a discharge of cement wastewater from the northeast corner of the cement wastewater settling tank into Lake Union. This discharge was gray and flowing in a stream about one foot wide and a half a foot high from a v-shaped cut in the cement wall of the settling tank. A sample of this discharge was obtained and field tested with a portable pH meter which indicated that the sample registered a pH of 12.3. Based on the above information a second federal search warrant was issued and executed on 10/10/86 at the Lake Union plant of Pioneer Construction Materials Co.

Reports of Investigation regarding the execution of both federal search warrants, witness interviews and observations by agents are attached. Copies of both search warrants and affidavits are also attached. Also attached are laboratory analytical reports for certain field samples. Additional ROI's are in preparation.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF CRIMINAL INVESTIGATIONS

**REPORT OF INVESTIGATION**

1. TITLE  Pioneer Construction Materials Co.	2. CONTROL NUMBER  86-X-4-4 #1 34W
3. PERIOD COVERED	4. REPORTING OFFICE  Seattle 8/28/86

**SYNOPSIS:**

Case Opening Report/Investigative Plan

On May 19, 1986, Jane Hadley, Investigative Reporter, Seattle Post Intelligencer, advised S/A Gerd Hattwig telephonically that she had received a telephone call from an anonymous male. Hadley indicated that this individual called her in response to some of the stories she had written regarding recent environmental indictments. Hadley indicated that she tried to have the anonymous caller get in direct contact with the enforcement agencies but the caller advised that he did not want to get involved with the government. The anonymous source, according to Hadley, stated that everyday when he leaves work he sees large cement trucks from Pioneer Sand and Gravel, Pioneer Cement and Glacier Sand and Gravel being washed out into the Duwamish. Reportedly, this occurred at the north end of Slip #2 and barges were brought in to hide the activity.

Hadley inquired as to the legality of this type of activity and was told by S/A Hattwig that the legality of this activity could only be determined after a review of the company's NPDES permit and its limitations.

A review of a Seattle business directory disclosed a listing for Pioneer Construction Materials Company, a division of Riedel International Inc., at 5975 East Marginal Way S., Seattle, WA and a secondary listing for Glacier Sand & Gravel Co. also located at the same street address. Telephone numbers for these businesses were listed as 764-3030 and 764-3000.

In discussing the above information with Mr. Dan Cargill, Washington State Dept. of Ecology (WDOE) Inspector, it was learned that Jane Hadley had also complained to his office regarding the activities of the Pioneer Construction Materials Co. Cargill advised that the WDOE was investigating the complaint. Cargill further advised that one of the other WDOE inspectors, a Mr. Richard Koch, conducted an inspection of the Pioneer facility on May 1, 1986.

On May 23, 1986, Dan Cargill contacted S/A Gerd Hattwig and advised that his department had just received another complaint regarding the Pioneer Construction Materials Co. He indicated that an individual named Lee Moyer was teaching a kayak class on the Duwamish River on May 22, 1986, in the evening. At that time, Moyer observed and photographed the discharge of what appeared to be cement truck washing residue into the northern part of Slip #2 of the Duwamish River. Cargill further indicated that Lee Moyer was in the process of providing

REPORT MADE BY  S/A Gerd Hattwig	DATE  10/7/86
REVIEWING OFFICIAL  SAIC Dixon McClary	DATE  10/7/86

This document contains neither recommendations nor conclusions of the EPA. It is the property of the EPA and is loaned to your agency; it and its contents are not to be distributed outside your agency.

**CONTINUATION SHEET**

86-X-4-4 #1 34W

CONTINUED:

the WDOE with a report, a list of other witnesses, and the photographs. Cargill also stated that, according to the state records, the Pioneer Construction Materials Co. does not have an NPDES permit to discharge into the Duwamish River. He further indicated that on May 1, 1986, Mr. Richard Koch, the other WDOE employee, had discussed the possible need for an NPDES permit with the management of Pioneer Construction Materials Co. At that time he was advised that the plant did not discharge into the Duwamish River and would not be discharging into the Duwamish in the future and therefore no NPDES permit would be required. According to Cargill, a written report of Koch's inspection, dated May 2, 1986, was mailed to Ron Summers, Plant Manager, Pioneer Construction Materials Co. by Mr. Koch. In the report Koch again discussed the concerns of the WDOE over possible discharges into the Duwamish River and the need to obtain an NPDES permit. The report also contained, as attachments, an application for an NPDES permit and the instructions for completing it.

When contacted by S/A Hattwig, Lee Moyer advised that he had provided a written report of the incident to the WDOE and also furnished them with the list of witnesses as well as the negatives of the photographs that he took. Moyer indicated that he is the owner/operator of Pacific Water Sports, a firm engaged in the manufacture, sales and distribution of small recreational boats. He further indicated that he is a frequent recreational user of the Duwamish River and that he teaches kayaking to members of the general public on the Duwamish. Moyer agreed to cooperate in any continuing investigation by the EPA/OCI and the WDOE. He further volunteered to provide the boats necessary to conduct any further investigation. It was agreed that Moyer would meet with S/A Hattwig at a later time.

A review of EPA Region 10 records indicate that neither Pioneer Construction Materials Co. nor Riedel International Inc. have an NPDES permit or application pending. On 8/26/86, S/A Hattwig reviewed the WDOE file on Pioneer. That review, along with conversations with Richard Koch and Dan Cargill, indicate that Pioneer does not intend to apply for an NPDES permit. Koch stated that subsequent to his letter of May 2, 1986 to Ron Summers, he also had a telephone conversation on May 12, 1986 with Summers. During the call, Summers again assured that there would be no discharges from the Pioneer plant into the Duwamish and that temporary measures had been taken to avoid any discharge. Summers also assured Koch that the measures would be permanently incorporated in the future construction and upgrading of the plant. Cargill further furnished the photographs and correspondence that he had received from Lee Moyer.

Part of the WDOE file regarding Pioneer Construction Materials Co. was a report dated November 12, 1985, by Mr. Rene Fuentes, Hydrologist, U.S. EPA. The report stated that on 10/17/85 while on an inspection flight with Julie Sellick, WDOE, they witnessed what appeared to be a sediment discharge plume coming from a construction materials operation on the east side of the Duwamish Waterway near the north side of Boeing Field. Fuentes photographed the site and the discoloration in the water. Attached to the report was a photograph identified as having been taken on 10/17/85 by Rene Fuentes, as witnessed by Julie Sellick. The photograph was marked as: looking east at Slip #2, Glacier Sand & Gravel Co., 5975 E. Marginal Way S., note discoloration at water along north side of slip.

**CONTINUATION SHEET**

CONTINUED:

Mr. Fuentes was later contacted by S/A Hattwig regarding the above referenced report and photograph. Fuentes indicated that he had a vivid recollection of the incident. He indicated that this observation was made during an overflight by helicopter from another site which was under investigation by EPA at that time.

Additional Investigation and Technical Assistance Required

Additional investigation consists of surveillance, photographs, videotapes, and sampling of the discharges by Pioneer. Technical assistance will be provided by Region 10 ESD Division and the Region 10 Lab at Manchester, WA.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF CRIMINAL INVESTIGATIONS

REPORT OF INTERVIEW

1. TITLE Pioneer Construction Materials Company	2. CONTROL NUMBER 86-X-4-4 #2 34W
3. PERSON INTERVIEWED Lee Moyer	4. REPORTING OFFICE Seattle
5. LOCATION Seattle, WA	6. DATE 6/13/86

On June 13, 1986 Lee Moyer, owner/operator of Pacific Water Sport located on South Pacific Highway, Seattle, WA was interviewed by S/A Gerd Hattwig regarding his (Moyer's) observations of discharges of wastewater by the Pioneer Construction Materials Co. At this time Moyer reviewed a letter which he had written to the Dept. of Ecology (DOE) on May 23, 1986. Mr. Moyer indicated that this letter was written only one day after the observations and is an accurate description of his observations. The letter reads as follows:

On May 22, 1986 I was teaching a kayak class on the Duwamish River in the evening. About 7:30 PM we paddled into the first slip on the east side of the Duwamish downstream of the First Ave. Bridge where we saw a very large milky area in the water and two outlets gushing what appeared to be wash water from the cement plant on the north shore of the inlet. I photographed the extent of the colored area in the Duwamish. There was a barge moored slightly inland of the outlets and the milky muddy water extended out from the bank almost to the outer edge of the barge. The current was along the north shore of the inlet away from the main Duwamish channel and the muddy area extended to the inward end of the barge. In other words, the muddy water covered an area larger than the barge and the area between it and the shore together.

The water was very turbid. I got out of my kayak and climbed up the bank. The area behind the bulkhead appeared to be a washing and settling area. The catchbasin trough along the inside of the bulkhead contained muddy flowing water that seemed to be draining under the bulkhead and into the river. Next to the trough to the east was a turning auger half covered with the muddy water, which was kept agitated by the auger. This muddy water also seemed to be draining into the Duwamish. I photographed as much as I could but I was using black and white film.

This was not an accidental leak. It appeared that machinery was pumping and agitating the water so it would carry the mud into the Duwamish.

An employee confronted me as I stood on the top of the bank. In our brief encounter I asked if this was a normal procedure and his reply was "of course, this is a cement plant, isn't it?" I returned to my kayak and he left.

As I paddled about two more men watched me photograph. I tried to document

REPORT MADE BY S/A Gerd Hattwig	DATE 10-30-86
REVIEWING OFFICIAL SAIC Dixon McClary	DATE 10/30/86

This document contains neither recommendations nor conclusions of the EPA. It is the property of the EPA and is loaned to your agency; it and its contents are not to be distributed outside your agency.

**CONTINUATION SHEET**

86-X-4-4 #2 34W

**CONTINUED:**

the extent of the release. I also photographed the conveyor system which seemed to have dropped white powder where the high tide levels would wash it into the river. The system seemed to be in a poor state of repair.

Mr. Moyer was then shown the photographs which he identified as having been taken by him on 5/22/86. Moyer wrote a brief description of each photo taken and initialed the same.

Moyer also stated that on May 30, 1986 at approximately 9:20 PM he was paddling his kayak into Slip #2 of the Duwamish and saw a watery substance gushing out from behind a 12" x 12" (approximate) steel plate which was fastened to the bulkhead. He indicated that the watery discharge was milky and made a large milky cloud in the water. Moyer indicated that he observed this discharge from approximately 9:20 to 9:40 PM and that it seemed to be a steady flow.

Moyer stated he again observed a discharge from the Pioneer plant on June 4, 1986 at about 6:30 PM. At that time he was in a kayak and he videotaped this discharge which was occurring at the open drain below the auger.

Moyer indicated that he made additional observations on June 11, 1986, at approximately 9:40 PM. At that time he was paddling in his kayak on the Duwamish River and upon entering Slip #2 he noticed that Pioneer Construction Materials Co. was discharging a watery substance from two distinct drains. Both discharges were muddy and the most westerly of the discharges was a very dark color. The more easterly discharge point, behind the square metal plate, was milky in color. Moyer was able to hear the equipment of the facility which was operating at the time. Moyer also indicated that he videotaped the discharges at this time and he observed this activity for approximately 15 minutes starting at 9:40 PM. Moyer provided the original videotape to S/A Gerd Hattwig.

A complete debriefing of Moyer will occur at a later time.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF CRIMINAL INVESTIGATIONS

REPORT OF INVESTIGATION

1. TITLE  Pioneer Construction Materials Co.	2. CONTROL NUMBER  86-X-4-4 #3 34W
3. PERIOD COVERED	4. REPORTING OFFICE  Seattle

SYNOPSIS:

Observations and Sampling on June 13, 1986

Reference is made to ROI's 86-X-4-4 #1 and #2 reporting possible violations of the Clean Water Act by Pioneer Construction Materials Co. from discharges of wastewater into the Duwamish River in an area designated as Slip #2.

On June, 13, 1986 at approximately 8:15 PM. Lee Moyer and S/A Gerd Hattwig traveled by kayak to the location of Pioneer Construction Materials Co. on the Duwamish River. Upon arriving off-shore from the plant, located at the north side of Slip #2, the odor of cement was evident and discoloration in the water was noticeable. The source of this discoloration was a drain located behind an approximate 12" x 12" steel plate on the south side of the facility. The drain was discharging a large quantity of liquid which was gushing from behind the plate. The plume of the discharge was flowing toward the east part of the waterway and away from the Duwamish River. The discharge was sampled by Lee Moyer as it entered the waters of the Duwamish. Additionally, a water sample was taken away from the discharge for comparative purposes and it appeared quite a bit clearer. There did not seem to be any other activity occurring at the truck wash area of the plant. At approximately 8:23 PM the surveillance was terminated while the discharge was still occurring.

At 8:55 PM, Moyer and S/A Hattwig returned to the area of the Pioneer facility. The water off-shore from Pioneer, in the Duwamish River, appeared to be quite clear. After turning into Slip #2 along the northern edge which is bordered by the plant, Moyer and S/A Hattwig observed that the water was turning gray and had an obvious odor of cement. Moyer and S/A Hattwig further observed that the discharge from the drain covered by the metal plate was still occurring. The discharge foamed as it entered the water. At approximately 9:03 an unidentified male was observed checking some parked cement trucks. The male, who was holding a clipboard, was described as: black, approximately 5'6" to 5'7" tall, approximately 35 years of age, wearing a cap. The surveillance of the Pioneer plant was terminated at approximately 9:10 PM at which time the discharge was still occurring.

REPORT MADE BY  S/A Gerd Hattwig	DATE  1-6-87
REVIEWING OFFICIAL  SAIC Dixon McClary	DATE  1/6/87

This document contains neither recommendations nor conclusions of the EPA. It is the property of the EPA and is loaned to your agency; it and its contents are not to be distributed outside your agency.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF CRIMINAL INVESTIGATIONS

REPORT OF INVESTIGATION

1. TITLE  Pioneer	2. CONTROL NUMBER  86-X-4-4 #4 34W
3. PERIOD COVERED	4. REPORTING OFFICE  Seattle

SYNOPSIS:

Observations of Lee Moyer on 6/19/86

Reference is made to ROI's 86-X-4-4 #1 and #2 reporting possible violations of the Clean Water Act by Pioneer Construction through discharges of wastewater into the Duwamish River in an area designated as Slip #2.

On 6/19/86 Lee Moyer contacted S/A Hattwig and indicated that this morning at approximately 7:12 AM he observed from the opposite shoreline a discharge of a discolored, watery substance from the drain which was covered by the metal plate. Moyer further indicated that he was videotaping the occurrence and that he was able to observe this discharge due to the fact that the tide was abnormally low. The barge which would normally block any observation was low enough that he was able to observe the plate drain from the opposite shoreline. During his videotaping of the incident he was contacted by a male who was wearing a hardhat with the word Glacier written on it. This individual asked if he could help Mr. Moyer. Moyer indicated that he did not need any help.

REPORT MADE BY  S/A Gerd Hattwig	DATE  11/7/87
REVIEWING OFFICIAL  SAIC Dixon McClary	DATE  11/7/87

This document contains neither recommendations nor conclusions of the EPA. It is the property of the EPA and is loaned to your agency; it and its contents are not to be distributed outside your agency.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF CRIMINAL INVESTIGATIONS

REPORT OF INVESTIGATION

1. TITLE  Pioneer Construction Materials Co.	2. CONTROL NUMBER  86-X-4-4 #5 34W
3. PERIOD COVERED	4. REPORTING OFFICE  Seattle

SYNOPSIS:

Observations on 6/23/86

Reference is made to ROI's 86-X-4-4 #1 and #2 reporting possible violations of the Clean Water Act by Pioneer Construction from discharges of wastewater into the Duwamish River in an area designated as Slip #2.

On 6/23/86 S/A Hattwig observed a discharge of a liquid substance occurring from a pipe under the cement block area at Pioneer. This discharge point was to the east of the metal plate covered drain and was also to the east of the dock which is used to load/unload barges by Pioneer. The discharge was observed for a period of approximately 20 minutes from 7:35 AM to 7:55 AM and seemed to be steady. The discharge was not causing a large amount of discoloration in the water. The drain behind the metal plate in the bulkhead was not discharging at this time and neither was the open drain area to the west of it.

REPORT MADE BY  S/A Gerd Hattwig	DATE  1-5-87
REVIEWING OFFICIAL  SAIC Dixon McClary	DATE  1/5/87

This document contains neither recommendations nor conclusions of the EPA. It is the property of the EPA and is loaned to your agency; it and its contents are not to be distributed outside your agency.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF CRIMINAL INVESTIGATIONS

REPORT OF INVESTIGATION

1. TITLE  Pioneer	2. CONTROL NUMBER  86-X-4-4 #6 34W
3. PERIOD COVERED	4. REPORTING OFFICE  Seattle

SYNOPSIS:

Observations on June 26, 1986

Reference is made to ROI's 86-X-4-4 #1 and #2 reporting possible violations of the Clean Water Act by Pioneer Construction Materials Co. through discharges of wastewater into the Duwamish River in an area designated as Slip #2.

On June 26, 1986 S/A's Mann and Hattwig conducted a surveillance at the concrete plant identified above. S/A Hattwig observed a discharge of brown liquid from an open drain down the bank of the waterway adjacent to Pioneer. The brown liquid was flowing as a steady stream from an area next to a screw-like machine and entering the waterway causing discoloration and foaming on the surface. During this period of time a number of cement trucks, some of them marked Glacier Sand & Gravel, and some of them marked Pioneer Sand & Gravel, were being washed down. The observation took place from the opposite side of the waterway from a public access area previously occupied by Alaska Freight Co. Between 3:30 PM and 3:55 PM, S/A Hattwig drove through the area a number of times and the flow of the brown liquid was visible on each occasion.

At approximately 3:55 PM S/A Mann observed that the large water tank located on the Pioneer property was overflowing. S/A Mann witnessed a worker in a yellow hardhat operate a valve by the water tank which was overflowing. The worker operated this valve three times while standing there and each time the flow of the brown liquid through the open drain into the Duwamish increased significantly. S/A Mann also observed that the liquid was brown in color and foaming when it hit the water in the waterway.

At approximately 4:05 PM S/A's Hattwig and Mann were parked in their vehicle in front of the former Alaska Freight Co. and observed the same worker in the yellow hardhat operate a valve along the horizontal pipe connected to the water tank. This valve was operated with a lever and after this individual operated the valve the flow of brown liquid into the waterway increased significantly. After having opened this valve the worker in the yellow hardhat entered a large skiploader and drove off toward the west end of the property.

During the time from 4:05 PM to 4:25 PM the S/A's observed cement trucks being washed in that work area. At approximately 4:25 PM the large tank overflowed again and a brown foamy substance could be observed running down the sides. A worker wearing a green hardhat and yellow shirt started to operate a valve at the bottom of the tank and the overflow stopped. However, the increase of liquid being discharged through the open drain increased significantly.

REPORT MADE BY  S/A Gerd Hattwig	DATE  1/7/87
REVIEWING OFFICIAL  SAIC Dixon McClary	DATE  1/7/87

This document contains neither recommendations nor conclusions of the EPA. It is the property of the EPA and is loaned to your agency; it and its contents are not to be distributed outside your agency.

## CONTINUATION SHEET

86-X-4-4 #6 34W

CONTINUED:

The worker wearing the green hardhat and yellow shirt was a white male, 165 lbs., 25 to 35 years old, mustache, dark hair-collar length. At approximately 4:30 PM this individual with the green hardhat was observed operating yet another valve and then was seen hosing down material with a high pressure water hose. He then operated two valves which he operated with a lever-type handle. Each time the flow of brown liquid through the open drain increased significantly. Subsequent to this action and some additional hosing down of the area with a high pressure water hose, this individual was seen heading toward the office building on the west part of the facility. At approximately 4:37 PM a large cement truck backed up to the truck washing area. This truck was identified by a number at the rear of the cab. The number was 74863. The truck was observed taking on brownish dark water and after some period of time discharging what appeared to be a darker brown liquid substance out of the back of the mixing tank. The individual operating the truck was wearing a red hardhat and blue overalls. The truck was blue and red in color. Another truck also pulled up during the observation time and took on a brownish looking water and then discharged the apparent washout leftovers onto the ground. During the same period of time a blue-green truck backed up to what appeared to be a tank with a large screw rotating within it. This cement truck discharged a brownish watery substance which seemed to contain some sand and gravel into the tank. At approximately 4:45 PM this activity by the blue/green cement truck stopped.

At approximately 4:45 PM S/A's Hattwig and Mann drove along the edge of the waterway opposite from Pioneer. At that time the agents observed a discharge of a brownish liquid substance from a second point source. The discharge originated out of the cement wall adjacent to the water tank described earlier. The source of this discharge was partially obscured by a steel plate which appeared to be like an anchor in the cement wall. The flow from behind this pipe was quite strong as water was gushing all around it. This discharge was not observed on prior occasions. At approximately 4:55 PM the surveillance by S/A's Hattwig and Mann was terminated at Pioneer. At that time both discharge points, the open drain and the drain out of the cement wall, were discharging a brownish liquid.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF CRIMINAL INVESTIGATIONS

REPORT OF INVESTIGATION

1. TITLE  Pioneer	2. CONTROL NUMBER  86-X-4-4 #8 34W
3. PERIOD COVERED	4. REPORTING OFFICE  Seattle

SYNOPSIS:

Reference is made to ROI's 86-X-4-4 #1 and #2 reporting possible violations of the Clean Water Act by Pioneer Construction Materials Co. through discharges of wastewater into the Duwamish River in an area designated as Slip #2.

On 8/20/86 S/A Hattwig conducted a surveillance of the Pioneer facility on the Duwamish River. To the south of this concrete plant was a freshly painted building identified by a large sign painted on the building as Pioneer Construction Materials Co. Building Materials Warehouse. The street address was shown as 6335 1st Ave. South. North of this building is the public access to Slip #2.

At about 5:30 PM S/A Hattwig observed a liquid discharge from an area below the large water tank and next to the auger-like piece of machinery. This liquid discharge was running down the embankment and foaming as it entered the waters of the Duwamish. Concrete mixer trucks were being washed out and hosed down in close proximity of the discharge. One of the concrete mixer trucks was labeled Glacier, Helping Build the West; number 74-941 on the truck was visible with the aid of binoculars. Another mixer truck with a red and white stripe around its drum and a "W" on the door of the cab was also visible. The number of this truck was 350. Both these vehicles were observed being washed out and dumping large amounts of liquid near the area of the discharge.

In addition to the discharge running down the embankment near the corner of the auger-like machinery there was also a discharge observed about 50 ft. to the west along the bulkhead in an area where the shoreline becomes irregular. A liquid substance was observed running down the side of the embankment and into the Duwamish. The source of this discharge was some type of hose or pipe from which the discharge is gushing.

At approximately 6:40 PM S/A Hattwig discontinued this surveillance which was conducted from his vehicle parked on the east side of 1st Ave. South. During this period of surveillance the flow from both point sources described continued at a steady rate.

At about 7:12 PM Lee Moyer and S/A Hattwig resumed the surveillance by approaching the Pioneer facility from the waterside using kayaks. They observed the liquid discharging from a black hose about 1" in diameter, which was hanging over the

REPORT MADE BY  S/A Gerd Hattwig	DATE  1/7/87
REVIEWING OFFICIAL  SAIC Dixon McClary	DATE  1/7/87

This document contains neither recommendations nor conclusions of the EPA. It is the property of the EPA and is loaned to your agency; it and its contents are not to be distributed outside your agency.

CONTINUATION SHEET

86-X-4-4 #8 34W

CONTINUED:

side of the cement wall. This discharge was previously described as being about 50 ft. to the west of the open drain below the water tank. The discharge from this hose was steady with a great deal of velocity, running down the embankment and into the Duwamish at waterway #2. S/A Hattwig measured a pH of 10.0 by means of a portable pH meter and Lee Moyer took a water sample in the small cove where this discharge entered the Duwamish.

Additionally, Moyer and S/A Hattwig observed, suspended under about 2" of water a cloudy mass of blobs, gray in color, that would disintegrate when disturbed. Moyer videotaped this and took water samples. S/A Hattwig used the portable pH meter and measured a pH of 10.1 in the water containing the oddly suspended blobs.

At about 7:20 PM Moyer and S/A Hattwig were offshore from the corner of the auger-like machine and observed a brownish gray substance cascading down the embankment and flowing into the Duwamish. The discharge originated just west of the corner and was causing foam when it entered the Duwamish. Again Moyer videotaped the discharge and took a water sample at the point where the liquid entered the Duwamish. S/A Hattwig, using the portable pH meter, measured a pH of 11.2 in the Duwamish at the point of discharge and a pH of 12.1 in the discharge as it cascaded down the embankment. At about 7:38 PM the surveillance team left the area as both point sources were discharging at a steady flow.

At about 8:45 PM Moyer and S/A Hattwig paddled past the Pioneer plant again and observed that both point sources were still discharging at about the same rate as had been noted previously.

During this surveillance from the kayaks no discharge was observed from behind a metal plate in the cement wall to the east of the current discharge. However, discoloration from prior discharges was clearly visible on the wall below the plate.

On shore S/A Hattwig took custody of the videotape and the samples. The samples were sent to the EPA Lab at Manchester for analysis.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF CRIMINAL INVESTIGATIONS

REPORT OF INVESTIGATION

1. TITLE  Pioneer Construction Materials Co.	2. CONTROL NUMBER  86-X-4-4 #9 34W
3. PERIOD COVERED	4. REPORTING OFFICE  Seattle

SYNOPSIS. Observations on 8/25/86

Reference is made to ROI's 86-X-4-4 #1 and #2 reporting possible violations of the Clean Water Act by Pioneer Construction from discharges of wastewater into the Duwamish River in an area designated as Slip #2.

On 8/25/86, at approximately 5:35 PM, S/A Gerd Hattwig was at a surveillance point just east of Slip #2 at the Duwamish Waterway and between the operating facility of Pioneer and a building renovated for use by the same company. S/A Hattwig observed a visible discharge of a liquid substance from a pipe below the cement block area (also see ROI 86-X-4-4 #5). The discharge was occurring from the same point observed by S/A Hattwig on 6/23/86.

At approximately 5:39 PM S/A Hattwig observed the discharge of a brownish liquid material from the area below the water tank at the Pioneer facility. This brownish liquid was coming from an open drain. The liquid was running down the embankment and foaming as it entered the waters of the Duwamish. During that time there were various activities going on at the plant. For example, a skiploader was in operation on a barge which is tied to the dock at Pioneer. The area of the drainpipe, covered by the 12 x 12 metal plate, was not visible due to the fact that the large barge (the one being unloaded) was blocking the view.

REPORT MADE BY  S/A Gerd Hattwig	DATE  1-6-87
REVIEWING OFFICIAL  SAIC Dixon McClary	DATE  1/6/87

This document contains neither recommendations nor conclusions of the EPA. It is the property of the EPA and is loaned to your agency; it and its contents are not to be distributed outside your agency.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF CRIMINAL INVESTIGATIONS

REPORT OF INVESTIGATION

1. TITLE  Pioneer	2. CONTROL NUMBER  86-X-4-4 #10 34W
3. PERIOD COVERED	4. REPORTING OFFICE  Seattle

SYNOPSIS:

Observations on 8/27/86

Reference is made to ROI's 86-X-4-4 #1 and #2 reporting possible violations of the Clean Water Act by Pioneer Construction Materials Co. through discharges of wastewater into the Duwamish River in an area designated as slip #2.

On 8/27/86 at about 5:05 PM S/A's Mann and Hattwig were conducting a surveillance from across 1st Ave. South between the area of Pioneer Construction Materials and a building to the south of it. Looking to the west, 7 cement trucks were visible at the cement truck wash area being washed. Also visible was a hose at the western part of the truck washing area and it was discharging a liquid substance. Wetness was visible all down the bulkhead and the water was running into the water of the Duwamish at Slip #2. There was an individual shoveling material over the bulkhead into Slip #2. He shoveled material over the side. The man that was shoveling was described as a black male with a beard, wearing a blue hat and blue coveralls. At 5:13 PM the individual ceased shoveling after 35 shovels over the side. A liquid substance continued running from the point source located toward the western part closest to the office facility of the truck wash area.

At 5:20 PM the S/A's observed a discharge from a pipe which is located directly under the area where the cement blocks are poured; which is at the eastern part of Slip #2 on the north side.

Surveillance was interrupted temporarily at 5:20 PM.

At 5:35 PM the S/A's continued surveillance from across the street in the public parking area across from the cement plant. The large water tank was just overflowing. It was overflowing at both sides at that time. Two individuals were now cleaning out the channel that runs parallel to the cement wall which extends up from the bulkhead and throwing shovels of material over the side as described earlier. A second individual, a white male, joined the black male described above and engaged in the shoveling over the side. This second male was wearing a green hardhat, sleeveless green shirt, with dark blond hair, with a mustache and glasses. Approximately another 12 shovels of material were observed being thrown over the side at that point. At 5:40 PM the water tank began overflowing again - a large plume was cascading over the side of the tank. The shoveling operation was still going on at this time. There was a

REPORT MADE BY  S/A Gerd Hattwig	DATE  11/6/87
REVIEWING OFFICIAL  SAIC Dixon McClary	DATE  11/7/87

This document contains neither recommendations nor conclusions of the EPA. It is the property of the EPA and is loaned to your agency; it and its contents are not to be distributed outside your agency.

**CONTINUATION SHEET**

86-X-4-4 #10 34W

**CONTINUED:**

steady traffic of cement trucks pulling up to the wash and emptying their tanks. The previously described black male with the overalls had a name written on the left side of his coveralls in red. However, the name was not readable from the point of surveillance. At 5:44 PM, the shoveling operation at the trench appeared to be moving along from the east to the west and the workmen were shoveling the debris over the cement wall into slip #2 of the Duwamish. From their vantage point S/A's were unable to determine whether the debris was entering the water or merely the tide area (it would depend on how high the tide was at this time). At 5:52 PM the shoveling operation over the side continued. Cement trucks were still pulling in and being washed. At 6:07 PM the shoveling operation continued and S/A Mann, with the aid of binoculars, observed material entering the water. S/A Hattwig observed on prior surveillances, by kayak, to the shoreline of the Pioneer facility that inevitably the material which did not hit the water will be washed into the river at the next high tide.

At approximately 6:10 PM the surveillance was discontinued. At that time the hose to the west of the water tower was still discharging, material was still being shoveled into the Duwamish and the pipe below the cement block area was still discharging liquid.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF CRIMINAL INVESTIGATIONS

REPORT OF INVESTIGATION

1. TITLE  Pioneer	2. CONTROL NUMBER  86-X-4-4 #12 34W
3. PERIOD COVERED	4. REPORTING OFFICE  Seattle

SYNOPSIS:

Discharge on 9/3/86

Reference is made to ROI 86-X-4-4 #13 by S/A Commodore Mann reporting the execution of a federal criminal search warrant on 9/3/86 at Pioneer Construction Materials Co., 5975 E. Marginal Way South, Seattle, WA.

On 9/3/86 at approximately 3:45 PM during the surveillance prior to the execution of the search warrant S/A Commodore Mann and Andrew Hess, EPA-ESD made an observation from a boat of a liquid discharge at Pioneer, East Marginal Way South, Seattle, WA. The discharge was observed flowing into the Duwamish River on the north side of Slip No. 2. The discharge appeared from the vicinity of the auger and the seawall at Pioneer. The liquid flowed from that area over a pile of rock and debris and into the Duwamish. The liquid was gray and cloudy in color. After approximately 5 minutes the flow of liquid slowly tapered off until there was no longer any discharge into the river.

REPORT MADE BY  S/A Commodore Mann	DATE  Nov 12, 1986
REVIEWING OFFICIAL  SAIC Dixon McClary	DATE  11/12/86

This document contains neither recommendations nor conclusions of the EPA. It is the property of the EPA and is loaned to your agency; it and its contents are not to be distributed outside your agency.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF CRIMINAL INVESTIGATIONS

**REPORT OF INVESTIGATION**

1. TITLE  Pioneer Construction Materials Company	2. CONTROL NUMBER  86-X-4-4 #13 34W
3. PERIOD COVERED	4. REPORTING OFFICE  Seattle 9/8/86

SYNOPSIS:

Search Warrant

On 9/3/86 U.S. Magistrate John L. Weinberg issued a criminal search warrant for Pioneer Construction Materials, 5975 E. Marginal Way South, Seattle, WA. (206-764-3000). The search warrant was based upon a written affidavit of S/A Gerd Hattwig. The search warrant was issued under Magistrate's Docket #86-231M-01. Copies of the search warrant and affidavit are attached.

On 9/3/86 at approximately 1:30 PM the following individuals met at the Seattle Area Office to discuss the search warrant and the property list of items to be seized pursuant to the warrant:

1. S/A Gerd Hattwig
2. S/A Dixon McClary
3. S/A Ken Purdy
4. S/A Commodore Mann
5. S/A Lorie Hanson
6. Paul Boys, EPA Region 10
7. Dan Bodien, EPA Region 10
8. Jim Hileman, EPA Region 10
9. Dan Tangerone, EPA Region 10
10. Andrew Hess, EPA Region 10
11. Dan Cargill, WA Dept. of Ecology (WDOE)
12. Richard Koch, WDOE
13. Mark Horton, WDOE

At the meeting, the above named individuals discussed the affidavit for the search warrant, the search warrant and the property list of items to be seized. All the above were given a copy of the search warrant and property list. All the above were part of the search team. (Note: Mark Horton, WDOE, entered the Pioneer complex at the beginning of the search then departed the area shortly thereafter.)

On 9/3/86 at approximately 4:45 PM S/A's Hattwig and McClary entered the Pioneer Construction Materials Corporate Headquarters building, 5975 E. Marginal Way S., Seattle, WA. At the corporate hqs. the agents met Ron Summers, Operations Manager of the Pioneer facility. The agents identified themselves to Summers. Summers was given a certified copy of the search warrant.

REPORT MADE BY  S/A Commodore Mann	DATE  Oct 30, 1986
REVIEWING OFFICIAL  SAIC Dixon McClary	DATE  10/30/86

This document contains neither recommendations nor conclusions of the EPA. It is the property of the EPA and is loaned to your agency; it and its contents are not to be distributed outside your agency.

**CONTINUATION SHEET**

**CONTINUED:**

During the search Summers, Jim Repman, President of Pioneer, and Bob Tea were interviewed. Those interviews will be the topic of separate reports. During the search, Charles R. Blumenfeld and Linda Christopherson, Attorneys at Law, arrived at the Pioneer facility. The two attorneys stated they were there at the request of Jim Repman. At the conclusion of the search Repman reviewed the inventory of items seized in the presence of Blumenfeld and Christopherson. A copy of the inventory was left with Repman.

The agents departed the Pioneer facility at approximately 10:25 PM. A total of 54 items were seized. This total included soil and liquid samples taken on Pioneer property. The items seized were transported to the Seattle Area Office and secured. The samples were transported on 9/4/86 to the EPA Manchester Lab for analysis.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF CRIMINAL INVESTIGATIONS

REPORT OF INVESTIGATION

1. TITLE  Pioneer	2. CONTROL NUMBER  86-X-4-4 #15 34W
3. PERIOD COVERED	4. REPORTING OFFICE  Seattle 9/3/86

SYNOPSIS:

Reference is made to ROI 86-X-4-4 #13 by S/A Commodore Mann reporting the execution of a federal criminal search warrant at Pioneer Construction, 5975 E. Marginal Way South, Seattle, WA on 9/3/86. During the execution of that warrant, S/A Dixon McClary encountered Bob Tea in the "yard" near the truck wash area. S/A McClary identified himself to Tea and advised him that a search warrant, related to environmental violations, was in progress. Tea was also advised that neither he nor anyone else at the plant was in custody. Tea stated that he understood he was not in custody. Tea jokingly added that if anyone was going to jail it should be Ron (Summers, Operations Manager). Summers was present at the time. S/A McClary assured both Tea and Summers that no one at the plant was in custody. Both Tea and Summers acknowledged. Tea then agreed to answer questions.

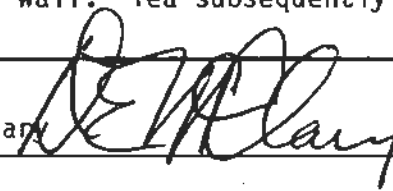
Tea stated that he had worked at that particular cement plant for approximately four years. Tea continued that he was in "operations" and worked for Ron Summers. Tea indicated that the "operations" staff consisted primarily of he and Summers and that they had operational responsibility for several Pioneer cement facilities. Tea indicated that he had just returned from the Portland facility and would shortly be enroute to their Tacoma facility.

S/A McClary asked Tea to accompany him out onto a "catwalk" which runs parallel to the truck wash/recycle facility. The "catwalk" is essentially a wire mesh walkway attached to the outboard (riverside) of the truck wash/recycle facility. Tea agreed.

S/A McClary pointed out a hole in the concrete wall, which was loosely covered by a metal plate. S/A McClary asked Tea to explain. Tea stated that the hole had been jackhammered in the concrete retaining wall by employees of the previous owner, Kaiser. Tea continued that truck washings would discharge through that hole and into the river if the liquid levels in the truck wash/recycle facility were too high. Tea stated that it was a common occurrence with the previous owner.

Tea acknowledged that the loose fitting metal plate would not stop or eliminate a discharge from that hole. Tea further acknowledged that the liquids beneath the hole on the river bank could only mean that a discharge had recently occurred through the hole.

Tea stated that approximately 3 months ago Ron Summers instructed him to plug the hole in the wall. Tea subsequently instructed other Pioneer employees to

REPORT MADE BY  SAIC Dixon McClary 	DATE  9/26/86
REVIEWING OFFICIAL	DATE

**CONTINUATION SHEET**

86-X-4-4 #15 34W

CONTINUED:

plug up the hole. Tea said that this was the first time he had looked at the hole since issuing those instructions.

Tea also stated that approximately 3 months ago Summers ordered him to stop the use of a bypass gate. S/A McClary and Tea then moved to a position where they could view the gate. The bypass gate was observed to be a hydraulically operated metal gate located on the outboard (riverside) of the truck wash/recycle facility. The gate divided an otherwise solid concrete wall and was located where washings would reach it just prior to the large separation auger. The gate was operated from the top by a hydraulic cylinder. The shaft of the hydraulic cylinder was very dirty with the exception of the top approximate 3 inches which was clean and shiny.

S/A McClary inquired about the purpose of the gate. Tea responded that the purpose was obvious and that it was designed to allow truck washings to bypass the recycling facility and flow directly down the bank and into the river. Tea continued that the gate had been used with some regularity by the prior owners. Tea explained that concrete and sediment would periodically build up along another gate which was perpendicular to the bypass gate. The bypass gate would then be opened to divert wash water during the removal of the concrete and sediment buildup. Reportedly, the bypass gate was also used when repair work was required on the auger; which was located just beyond the bypass gate. Tea acknowledged that the clean portion of the hydraulic cylinder shaft could only mean that the bypass gate had recently been opened.

Tea stated that approximately 1 or 2 weeks ago the auger had broken down. The repairs to the auger took approximately 1 week. Tea speculated that company employees opened the bypass gate to divert truck washings during the repairs. Diverting the truck washings would allow repairmen to work in a reduced quantity of liquids.

S/A McClary asked Tea if there were any other points of discharge at the facility. Tea responded that there was a sump into which Pioneer discharged mostly clean city tap water. Tea continued that he did not know for sure if the sump discharged into the river.

Tea said that Pioneer had been visited by a regulatory agency some months ago. Tea continued that discharges from the truck wash area and surface runoff had been areas of concern to that agency. Tea said that Pioneer was working to correct those areas of concern. Tea thought that a letter from that agency was in his office.

Parts of the above conversation were witnessed by Ron Summers. After approximately 15 to 20 minutes, Summers advised that Tea needed to leave for Pioneer's Tacoma facility. Tea subsequently departed.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF CRIMINAL INVESTIGATIONS

REPORT OF INVESTIGATION

1. TITLE  Pioneer	2. CONTROL NUMBER  86-X-4-4 #16 34W
3. PERIOD COVERED	4. REPORTING OFFICE  Seattle 9/4/86

SYNOPSIS:

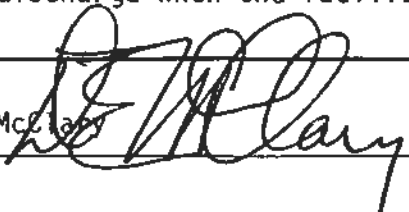
Reference is made to ROI 86-X-4-4 #13 by S/A Commodore L. Mann reporting the execution of a federal criminal search warrant at Pioneer Construction, 5975 E. Marginal Way S., Seattle, WA on 9/3/86. Reference is further made to ROI 86-X-4-4 #15 by S/A Dixon McClary reporting the interview of Bob Tea on that same date.

At approximately 4:45 PM on 9/3/86 S/A's Gerd Hattwig and Dixon McClary went to Pioneer Construction, address as above. There agents were directed by a receptionist, to the office of Ronald E. Summers, Operations Manager. Upon meeting Summers, S/A Hattwig identified the agents and presented Summers with a certified copy of the above referenced search warrant. S/A Hattwig proceeded to explain the search warrant and search warrant process to Summers. Summers then interrupted and summoned James A. Repman, President, from another part of Pioneer Construction offices.

When Summers and Repman returned, S/A Hattwig again explained the search warrant and search warrant process. At that time Repman was in possession of the certified copy of the search warrant previously presented to Summers. Shortly thereafter, Repman directed a secretary to transmit a copy of the search warrant to his corporate attorneys located in Portland, OR.

Both agents explained to Repman and Summers that the search warrant was directed at a premises and that no one at Pioneer Construction was under arrest or in custody. All Pioneer employees were free to go about their duties and leave at will. Both Repman and Summers acknowledged and stated that they would cooperate in any way possible.

Agents explained, in essence, that they were investigating alleged water pollution from the Pioneer facility at the truck wash area. S/A McClary asked if Pioneer had an NPDES permit. Summers replied in the negative. S/A McClary asked if Pioneer had applied for an NPDES permit. Summers replied in the negative. S/A McClary asked if Pioneer intended to apply for an NPDES permit. Summers again replied in the negative. Summers then responded that he had considerable experience in obtaining and complying with an NPDES discharge permit at Pioneer's Portland facility and that "quite frankly it's a real pain in the ass." Summers continued that Pioneer recycled its wash water at the E. Marginal Way facility and that they didn't have any intentional discharges. Summers added that they had had a problem with surface runoff but that problem was being fixed. Summers commented that it was very difficult not to have an occasional discharge when the facility was located directly on the water.

REPORT MADE BY  SAIC Dixon McClary 	DATE  9/25/86
REVIEWING OFFICIAL	DATE

This document contains neither recommendations nor conclusions of the EPA. It is the property of the EPA and is loaned to your agency; it and its contents are not to be distributed outside your agency.

## CONTINUATION SHEET

## CONTINUED:

At that time Repman departed Summers' office with the stated intention of telephoning his corporate counsel. Summers then agreed to accompany S/A McClary to the truck wash/recycle area. As the two left the office building, Summers asked S/A McClary if the agents had "brought the divers this time" (an obvious reference to a search warrant executed at Marine Power & Equipment in 2/85).

Summers led S/A McClary to an area east of the truck wash/recycle facility. There Summers pointed out approximately 15-20 concrete forms. Summers explained that the forms were used to contain leftover concrete remaining in the returning trucks at the end of the day. The concrete would harden into "ecology blocks" which were sold by Pioneer for use as dividers and retaining walls. When all the forms were in use, Summers stated that concrete remaining in returning trucks was deposited into the truck wash/recycle facility.

Summers continued that Pioneer had been visited by an inspector from a regulatory agency. That inspector reportedly identified a surface runoff problem in the area of the "ecology blocks." Summers stated that Pioneer was fixing the problem by completing a small concrete curb between the "ecology block" area and the river. The curbing was intended to channelize the runoff to a holding basin. Liquids in the basin would then be transferred to the truck wash/recycle area by means of a sump pump. Summers pointed out the holding basin. The basin was observed to be a corrugated aluminum pipe, approximately 5 ft. in diameter and approximately 5 ft. tall, with a concrete base. Summers stated that the basin had been installed approximately one month ago and was not completed at this time. The aforementioned curbing directed runoff to the unfinished basin. Considerable erosion was evident from the end of the curbing around the basin and into the river. Summers acknowledged that the erosion indicated discharges were occurring to the river.

S/A McClary asked Summers if the regulatory agency had advised that discharges of a pollutant were prohibited without a permit. Summers said that he knew a permit was required to discharge. Summers continued that the regulatory agency had sent him a letter with an NPDES permit application attached. Summers added, however, that he had not applied for the permit or answered the letter because he had lost it. Summers stated that he had looked everywhere without success. Summers mused that the search warrant could result in him finding the letter and the application.

Summers then led S/A McClary to the truck wash/recycle area. On the west side was a concrete pad sloped toward a concrete retaining wall which would channelize water in the direction of the aforementioned recycle area. Returning concrete trucks were washed out using recycled wash water and/or fresh water. Residual concrete was obviously washed out of the trucks. Larger amounts of concrete were also discharged into this area when the "ecology blocks" were in use. Recycled wash water was available to the trucks by means of overhead pipes which were fed by a tall reservoir over the recycle area. Truck washings, including concrete, sand and gravel, would flow in an easterly direction along the concrete wall into a pit containing a large auger. The turning auger separated the solids (sand, gravel and rock) to a great degree from the liquids. Solids, with some liquids, moved through the auger into a pit where a frontloader would periodically scoop them up and stockpile them nearby. Liquids, with

CONTINUATION SHEET

86-X-4-4 #16 34W

CONTINUED:

some solids, moved through the auger and into a channel which led to a settling pond. If the system was working properly, a float valve in the settling pond would automatically turn on a sump pump when the liquids rose to a predetermined level. The sump pump would move liquids from the settling pond into the tall reservoir over the recycle area. Recycled wash water in the reservoir could then be reused to wash trucks or reportedly be pumped into the concrete production facility. The entire truck wash/recycling area was divided from the riverbank and river by the above referenced concrete wall.

S/A McClary asked Summers to accompany him out on a wire mesh catwalk (previously described in ROI 86-X-4-4 #15. On the catwalk S/A McClary pointed out a hole in the concrete wall. The hole was loosely covered with a metal plate. There was an approximate 1" to 1 1/2" gap between the metal plate and the concrete wall. S/A McClary asked Summers for an explanation. Summers stated that the hole was obviously manmade and would allow a discharge from the truck wash/recycle area when the liquids rose to that level. Summers acknowledged that there were marked stains on the concrete around the hole indicating discharges had been occurring. Summers threw an object into a puddle of liquids beneath the hole. Summers noted that there had been an absence of rain for a considerable period of time and the liquids beneath the hole clearly indicated a recent discharge. Summers concluded by stating that he had never been out on the catwalk before and therefore had never closely viewed the hole.

Leaving the catwalk, Summers stated that approximately two to three months ago he was at the new Pioneer Construction warehouse across Slip 2. At that time Summers reportedly looked over at the concrete production facility and noted a discharge occurring from the truck wash/recycle area. The discharge was coming from the area of the catwalk and was running down the riverbank and into the river. Summers stated that he returned to the concrete production facility and immediately told Bob Tea to stop the discharge and plug the hole. Summers stated that he did not check with Tea thereafter to determine if the work was done.

The interview was temporarily interrupted by the arrival of Bob Tea. The interview of Bob Tea is reported in 86-X-4-4 #15. Summers, however, accompanied S/A McClary and Bob Tea to the vicinity of a bypass gate located in the truck wash/recycle area. Tea's observations and statements about the bypass gate are reported in the above referenced ROI in paragraph 7 and 8. Summers made the same observations relative to the operation of the gate. Summers noted that the gate was operated from the top by a hydraulic cylinder. The shaft of the hydraulic cylinder was very dirty with the exception of the top approximate 3 inches which was clean and shiny. Summers stated that the clean portion of the hydraulic cylinder shaft could only mean that the gate had recently been used. Following the interview of Bob Tea, S/A McClary returned to his discussions with Ron Summers. S/A McClary asked if Summers had indeed instructed Tea to plug the hole in the concrete wall and stop the use of the bypass gate. S/A McClary also reminded Summers that such instructions would mean Summers had seen two discharges instead of one. Summers responded that he did not specifically recall how many discharges he had seen. Summers said that he had definitely seen one but perhaps two. Summers stated that he did not specifically recall issuing instructions to Tea relative to the hole and bypass gate but could have. Summers stated that he recalled returning to the cement production facility and telling Tea to stop discharging.



## CONTINUATION SHEET

86-X-4-4 #16 34W

## CONTINUED:

Summers stated that it was practically impossible to have no discharges to the river when the plant was located directly on the water. Summers added that none of the discharges were intentional. Summers jokingly added that if anyone were going to jail for the discharges it should be Jim (Repman).

Summers stated that Pioneer operated facilities at E. Marginal Way, Harbor Island, Fairview, Maury Island, Tacoma, and Portland. Summers stated that he and Tea had operational responsibilities at each facility. Summers continued that Pioneer intended to consolidate some of those cement operations into an expanded E. Marginal Way facility. To that end, Summers stated that he had been working on obtaining a shoreline permit. Summers continued that getting an NPDES discharge permit for the facility would be unacceptable because of the high pH of the truck washings. Summers stated that it would be Pioneer's intention to recycle all their truck washings and have no waste discharges.

Summers and S/A McClary returned to the Pioneer Construction offices. Upon returning to the offices, S/A McClary learned that two attorneys, representing Pioneer Construction, from Bogle and Gates were present. The attorneys were Charles R. Blumenfeld and Linda Christopherson.

At approximately 9:30 PM S/A McClary asked Summers to again accompany him into the "yard." Summers, along with Linda Christopherson, agreed. The three then walked to the vicinity of the truck wash/recycle area. Near that area was a ground level concrete doorway. Through the doorway was a ramp leading down at an approximate 40° angle. At the end of the ramp was a concrete sump. There was a hose in the sump which was connected to some pipes and related valves. The hose was running.

An underground concrete hallway led away from the sump. In the hallway was a conveyor belt with sand and gravel debris. Over the conveyor belt were several chutes. Summers explained that above each chute was a pile of sand or gravel. A chute was manually opened to allow that material, when needed, to fall on the conveyor belt. The conveyor belt, when running, would then transport the raw materials down the hallway and then up into the concrete production facility.

Summers was asked to explain the sump and where the liquid was flowing. Summers stated that he did not know where the liquid was going and that it could have been going to the sewer or it could have been going "straight out" (to the waterway). Summers continued that he had only been at that location (E. Marginal Way facility) for approximately 6 months and he was finding out things about the facility everyday.

Summers, Christopherson, and S/A McClary then examined the concrete hallway with the conveyor belt. All three agreed that the hallway was essentially sloped toward the aforementioned sump and that any wash down water or storm water would flow to the sump.

S/A McClary subsequently pointed out to Summers and Christopherson that a dye test of the sump indicated that it discharged to Slip 2 just below the area

**CONTINUATION SHEET**

86-X-4-4 #16 34W

CONTINUED:

where the ecology blocks were located. Summers, Christopherson and S/A McClary observed the discharge and then returned to the office spaces.

Agents departed Pioneer Construction at approximately 10:25 PM.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF CRIMINAL INVESTIGATIONS

REPORT OF INVESTIGATION

1. TITLE  Pioneer	2. CONTROL NUMBER  86-X-4-4 #17 34W
3. PERIOD COVERED	4. REPORTING OFFICE Seattle 9/8/86

SYNOPSIS:

Reference is made to ROI 86-X-4-4 #13 by Commodore Mann reporting the execution of a federal criminal search warrant at Pioneer Construction Materials Co., 5975 E. Marginal Way South, Seattle, WA on 9/3/86. Reference is further made to ROI 86-X-4-4 #16 by S/A Dixon McClary reporting the interview of Ronald E. Summers.

ROI 86-X-4-4 #16 by S/A McClary also covers the initial contact with James A. Repman, President of Pioneer Construction Materials Company. After being summoned to Ron Summers' office Mr. Repman proceeded to read the certified copy of the search warrant and listened to the explanations by the special agents. He did acknowledge that he was aware of the laws requiring NPDES permits for discharges of wastewaters from cement plants into rivers. He stated he knows about NPDES permits because of his supervisory responsibility over a plant, similar to this one, in the Portland, OR area. Repman said he knows that this plant has no NPDES permit and does not need one because this plant is designed to recycle all wastewater.

Repman left Summers' office stating his intent to telephone his corporate counsel. Approximately 20 minutes later a female employee of Pioneer knocked on the closed office door of Repman's office. Apparently the door was locked from the inside because Repman had to open the door from the inside to communicate with the employee. At that time, Repman also noticed that the search of the offices was in progress and in a loud voice objected to the search prior to the approval from his attorney. Repman accused EPA of illegally invading his rights to privacy and demanded again that the search be stopped immediately. S/A Hattwig responded to Repman that the search by EPA agents and employees was authorized by a federal search warrant and that the search would continue without any delays. Repman then slammed his door to continue his telephone conversation.

A short time later Repman opened his office, invited S/A Hattwig in and apologized for his earlier conduct. Repman stated he was concerned about losing the use of his records and was advised by S/A Hattwig that he would be permitted to obtain copies of any document seized during this search warrant at a later date.

Repman further expressed his concern over maintaining the confidentiality of the seized files and was apprised by S/A Hattwig that the files would be maintained in accordance with evidence procedures.

REPORT MADE BY  S/A Gerd Hattwig	DATE  11-10-86
REVIEWING OFFICIAL  SAIC Dixon McClary	DATE  11/10/86

This document contains neither recommendations nor conclusions of the EPA. It is the property of the EPA and is loaned to your agency; it and its contents are not to be distributed outside your agency.

CONTINUATION SHEET

86-X-4-4 #17 34W

CONTINUED:

While in his office Repman further stated that another company of Riedel International Inc., Riedel Environmental Services and Riedel Emergency Services, are the Superfund contractor for the EPA and hold this contract for all 23 states west of the Mississippi. Repman also pointed out some of the literature he maintained in his office regarding Riedel Environmental Services and Riedel Emergency Services.

During this conversation in Repman's office, attorneys Charles R. Blumenfeld and Linda Christophersen from the law firm of Bogle and Gates entered and were accorded privacy with Repman in his office prior to the search of the office.

During the execution of the search warrant Repman ordered deli sandwiches for his staff, attorneys, and the EPA personnel. EPA personnel declined the dinner invitation stating they would work through dinner to expedite the conclusion of the search. During the dinner, Repman, his staff, and the Bogle and Gates attorneys were also consuming beer and wine.

Toward the end of their dinner break, in the presence of his attorneys, Repman was asked by S/A Hattwig to explain the concrete mixer truck clean-up and maintenance procedures.

Repman stated that every mixer truck has to be washed out at least once at the end of each day. This prevents the concrete from settling and hardening in the drum. Repman said recently a driver at their Portland concrete plant did not wash out the drum of his truck and was fired after spending a day inside the drum with a jackhammer, chipping loose the hardened concrete. Repman added, therefore, he is sure that each mixer truck is washed out at least once a day if it was used at all. Additionally, Repman said that as a matter of policy each truck returns at the end of each day to the plant.

Repman stated there is no accurate record of how many concrete mixer trucks wash out on any given day at the Duwamish plant because these trucks are dispatched between all three plants in the Seattle area and sometimes even the Tacoma plant. Repman estimated that between 25 to 45 mixer trucks on the average might wash out at the Duwamish plant daily.

Subsequent to the dinner break Repman helped the searching agents in locating specific records and at the conclusion of the search he and his attorneys reviewed the inventory of items seized during the execution of the warrant.

Agents departed the Pioneer facility at about 10:25 PM.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF CRIMINAL INVESTIGATIONS

REPORT OF INVESTIGATION

1. TITLE  Pioneer	2. CONTROL NUMBER  86-X-4-4 #22 34W
3. PERIOD COVERED	4. REPORTING OFFICE  Seattle

SYNOPSIS:

Search Warrant - Lake Union

On 10/9/86 U.S. Magistrate Philip K. Sweigert issued a criminal search warrant for Pioneer Construction Materials (Lake Union), 901 Fairview Ave. North, Seattle, WA. The search warrant was based upon the written affidavit of S/A Gerd Hattwig. The search warrant was issued under Magistrate's Docket Number 86-274M-01. Copies of the search warrant and affidavit are attached.

On 10/9/86, at approximately 1:00 PM the following individuals met to discuss the search warrant and property list of items to be seized pursuant to the warrant.

1. S/A Gerd Hattwig
2. S/A Dixon McClary
3. S/A Ken Purdy
4. S/A Commodore Mann
5. Dan Bodien
6. Jim Hileman
7. Dave Robocken
8. Dan Tangerone
9. Robert Athman
10. Kevin Fitzpatrick, Washington Dept. of Ecology

During the meeting the above named individuals read the affidavit for the search warrant. The search warrant and property list of items to be seized were discussed. All the above named individuals were members of the search team.

On 10/9/86 at approximately 2:15 PM S/A's Hattwig and McClary contacted Dick Glynn, Pioneer employee, who took them to Dan Carchano, Batchman of the number 3 mixer at the Lake Union facility of Pioneer. Carchano stated he is in charge of this operation and would accept service of the federal search warrant. S/A's Hattwig and McClary identified themselves and gave a certified copy of the warrant to Carchano. Carchano was located in the control room of the concrete mixing building at Pioneer (the batch room).

At approximately 2:25 PM the rest of the search team entered the Pioneer facility to begin the search. After determining that there were only a limited number of records at this plant, Dan Bodien, Dan Tangerone and Robert Athman left.

REPORT MADE BY  S/A Commodore Mann	DATE  Nov 12, 1986
REVIEWING OFFICIAL  SAIC Dixon McClary	DATE  11/12/86

This document contains neither recommendations nor conclusions of the EPA. It is the property of the EPA and is loaned to your agency; it and its contents are not to be distributed outside your agency.

**CONTINUATION SHEET**

86-X-4-4 # 22 34W

CONTINUED:

At approximately 2:45 PM Linda Christophersen, Attorney at Law, arrived at the batch office of Pioneer. There, Christophersen met with S/A Mann. Christophersen stated she was there at the request of Pioneer. Christophersen was given a copy of the search warrant. Christophersen left the batch office to observe the search of the premises.

At approximately 2:55 PM Ron Droz, vacuum tank truck driver for Crosby & Overton (C&O), entered the batch office. Droz gave Carchano a sample bottle of waste water and a receipt for 5000 gallons of waste water that he had just vacuumed from the Lake Union facility. Droz said he was going to deliver the waste water to C&O. Droz told S/A Mann that the sample container of wastewater he gave Carchano came from the load he had picked up from the Lake Union facility at approximately 1:00 PM. S/A Mann seized the sample container and C&O receipt. The sample container was marked item #5 on the property list. The C&O receipt was marked item #6 on the property list.

Prior to the sample being secured by S/A Mann, Carchano tested the wastewater in the container. The sample registered a pH of 12.24 on Carchano's meter. Carchano said that the main Pioneer office on the Duwamish had recently sent him the pH meter. Carchano said that he had received the pH meter near the first of Oct. 1986. Carchano said that he was instructed by Summers and Tea to measure the pH on every load of wastewater that left the cement plant. Carchano said that all wastewater loads that were tested and had a pH of 12.25 and over were to be delivered to C&O. Those loads under a pH of 12.25 were to be dumped in the gravel pit.

Pursuant to the search warrant a total of 7 items were seized. A copy of the inventory is attached. This total included samples that were taken from the Pioneer property and transported to the EPA Region 10 Lab for analysis.

Ron Summers was given a copy of the property list of items seized. Christophersen was present when Summers reviewed and was given a copy of the property list of items seized. Agents left this Pioneer facility at approximately 6:45 PM.

On 10/10/86 S/A Hattwig made a return of search warrant to U.S. Magistrate Sweigert.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF CRIMINAL INVESTIGATIONS

REPORT OF INVESTIGATION

1. TITLE  Pioneer	2. CONTROL NUMBER  86-X-4-4 #23 34W
3. PERIOD COVERED	4. REPORTING OFFICE Seattle

SYNOPSIS:

Reference is made to ROI 86-X-4-4 #22 by Commodore Mann reporting the execution of a federal criminal search warrant on 10/9/86 at Pioneer Construction Materials Co. located at 901 Fairview Ave. North, Seattle, WA.

At approximately 2:15 PM on 10/9/86 S/A's Gerd Hattwig and Dixon McClary went to the Pioneer Construction Materials Company located on Lake Union, address as above. These agents were directed by Dick Glynn, laborer, to the office of Danny Carchano, batchman left in charge of this plant. Carchano stated that he did not really hold any supervisory position but was simply operating the number 3 mixer. Carchano accepted service of the search warrant and S/A Hattwig proceeded to explain the search warrant process to Carchano. Carchano said that he understood and stated "help yourself."

S/A Hattwig also explained to Dick Glynn who had inquired "do we have a problem here", the purpose of the EPA presence and the search warrant process. Glynn agreed to take the agents on a tour of the facility.

During the tour Glynn stated that returning mixer trucks take on recycled water to wash out their drums. The drums are then emptied into a recovery device which by means of a large screw-like device separates the sand and gravel from the liquid. The sand and gravel is then recovered from a pit by means of a front loader. The liquid drains into a settling basin built into the ground. This basin is rectangular and reportedly of concrete wall construction. The basin is divided into three sections. According to Glynn the most northern section of the settling basin was used to pump the clarified liquid into after the solids had settled out. Glynn stated that up until about three weeks ago this was how the excess liquid was disposed of. Starting about three weeks ago, after a complaint, (Glynn would not elaborate), the clarified liquid was no longer pumped into the most northern holding tank. All the liquid now runs into the yard from the first settling tank. Glynn said ever since they stopped using the most northern settling basin the yard has been flooded by a foot of cement waste liquid. Tanker trucks from Crosby and Overton have been hauling this liquid away daily.

Glynn stated he has never seen any flow or spillage from any of the settling basins into Lake Union. When Glynn was specifically asked by S/A Hattwig what happened to all the liquid that was previously pumped into the most northern settling basin and is now flooding the yard, he stated "it evaporated." Glynn said he has not seen any overflow of liquid from the most northern holding tank at the northeastern corner now blocked by a clean metal plate.

REPORT MADE BY S/A Gerd Hattwig	DATE 12-16-86
REVIEWING OFFICIAL SAIC Dixon McClary	DATE 12/22/86

This document contains neither recommendations nor conclusions of the EPA. It is the property of the EPA and is loaned to your agency; it and its contents are not to be distributed outside your agency.

**CONTINUATION SHEET**

CONTINUED:

Glynn explained that a couple of times a week the settling basins are cleaned out by means of a clamshell and crane. The mud and liquid are deposited in a pond cut out of the cement waste and located to the northwest of the settling basins. Glynn said that the crane operator will drop the clamshell into the settling basins and clamshell out as much of the solids as possible and then swing the crane north and west. Glynn pointed to an area west of the settling basins and stated that the mound, about 25 ft. high, was made from cement waste. Glynn again stated that all the liquid waste in this pond, described above, would evaporate and that he has never seen it enter or overflow into Lake Union.

Glynn was asked specifically by S/A Hattwig what, if any, measures are taken to prevent the cement waste and debris from entering Lake Union--which surrounds the cement waste pile on three sides. Glynn said he remembered there are retaining walls made from ecology blocks that contain the cement waste. Glynn said he has not seen any cement waste enter Lake Union. Glynn added that the old barge which is no longer usable and a smaller barge which is overturned just happen to be moored at the north end of the property and were not intended to hide anything.

Inspection of the area between the barge and the pier disclosed that cement waste has entered the waters of Lake Union along the entire north side of the pier and the east side of that pier, north of the settling basin. It was also noticed when approaching the pier by boat that the barge blocks the direct view of the cement debris in the water. Furthermore, the point of the discharge from the north wall of the settling tank, previously observed by S/A Hattwig on 9/15/86, is also hidden from direct view by this large barge.

During the tour of the plant Glynn also introduced S/A Hattwig to Mr. Gene Belonga, another individual who works in the yard at the Lake Union Pioneer facility. According to Glynn, Belonga operates most of the heavy equipment.

Glynn and Belonga were questioned by S/A Hattwig regarding the liquid dripping from the tower like structure on the wooden pier used to unload sand and gravel. Glynn had previously explained that the tower was part of a system allowing sand and gravel to travel on conveyor belts from the barges to the concrete mixing area. Glynn claimed to be unaware of any liquid or solids discharging from the tower despite the obvious wetness and sand-like material accumulated under the tower. From the flow pattern of this material it was obvious that some of this material had entered Lake Union through a hole in the pier and also by flowing over the east side edge of the pier.

Belonga stated that the liquid is clean water, not recycled water, used to keep the underside of the conveyor belts clean. Belonga added that the water was turned off about three weeks ago in an attempt to keep materials from flowing into Lake Union. Belonga said that any material entering Lake Union from this location can only be "clean" (not recycled) water and clean sand used in the mixing of concrete. (Reference is further made to ROI 86-X-4-4 #25 by S/A Hattwig reporting the interview of Belonga.) Both Glynn and Belonga seemed evasive about who told them and how they were told, about three weeks ago, to make an effort to eliminate any discharges into Lake Union. But both Glynn and Belonga stated that Ron Summers.



## CONTINUATION SHEET

86-X-4-4 #23 34W

## CONTINUED:

the Operations Manager, and James A. Repman, President of Pioneer Construction Materials Co., are running this facility and are at this plant frequently.

At approximately 2:48 PM S/A Hattwig noticed Linda Christophersen, Attorney, Ron Summers, and Leonard Compher, Environmental Coordinator for Pioneer, enter the yard of the Lake Union facility. S/A Hattwig offered to provide Linda Christophersen with a copy of the search warrant but she stated that she had met S/A Commodore Mann who had already provided her with a copy of the warrant. Thereafter, S/A Hattwig had a short conversation with Ron Summers which is reported in ROI 86-X-4-4 #24. Ron Summers, Linda Christophersen and Leonard Compher were present in the yard at the Fairview plant until about 6:45 PM when the agents left the plant.

During the execution of the search warrant, 13 samples were taken under the direction of James R. Hileman on the property occupied by Pioneer. Additionally, numerous samples were taken from Lake Union. The sampling and the analysis of these samples will be reported in a separate report.

While inspecting the Lake Union facility, samples, photographs and videotape footage were also taken from a boat. Personnel specifically taking part in this part of the operation were Dave Robocken and Jim Hileman of EPA-ESD, Kevin Fitzpatrick, WDOE, and S/A's Purdy and Hattwig. The above named individuals all witnessed the discharge of a liquid from a square pipe terminating in the bulkhead on the west side of the facility about 2 ft. above the surface of Lake Union. The side of the bulkhead below the pipe was discolored, gray-white in color, with calcium like deposits along the stain. The same above listed individuals further traveled by boat around the northern part of the facility. To the north, in the area between a large barge and the facility, solid cement waste was observed in the water all along the north and part of the northeast shoreline. In some areas the lake water had under-cut the cement waste and created caves. In other areas, it was evident from the flow pattern that cement waste had recently been dumped along the slope of the cement waste pile and run off into Lake Union. Also the cement waste was yellow in color where it was coming in contact with the lake water.

An inspection of the outside walls of the settling basin disclosed that part of the cement wall at the northeast corner was missing. At this location there appeared an irregular hole, as if cut with a jackhammer about 2 ft. in diameter. The settling basin with the hole in the wall was used until about three weeks ago according to Pioneer employee, Dick Glynn. Prior to three weeks ago, the excess cement wastewater was pumped into this basin. (The break in the wall of this settling basin is where S/A Hattwig and two Seattle Police Harbor Patrol Officers witnessed a stream of liquid discharging into Lake Union on 9/15/86.) The break was partially blocked by a steel plate. It appeared that if the level of liquid in this settling basin rose another discharge to Lake Union was probable. The steel plate was devoid of any cement stains or deposits. This was in sharp contrast to the area immediately next to it. That area had cement stains and deposits several inches high.

Whenever possible the above observations were documented by photographs and/or videotape recordings. At approximately 6:45 PM agents left the Fairview facility of Pioneer Construction Materials Co.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF CRIMINAL INVESTIGATIONS

REPORT OF INTERVIEW

1. TITLE Pioneer	2. CONTROL NUMBER 86-X-4-4 # 24 34W
3. PERSON INTERVIEWED Ronald E. Summers	4. REPORTING OFFICE Seattle
5. LOCATION Seattle, WA	6. DATE 10/9/86

Reference is made to ROI 86-X-4-4 #22 by S/A Commodore Mann reporting the execution of a federal criminal search warrant at Pioneer Construction Materials Co. located at 901 Fairview Ave. North, Seattle, WA on 10/9/86.

At about 3:00 PM on 10/9/86 Ronald E. Summers was interviewed in the yard of the facility identified above. Also present during this interview were Leonard Compher, Environmental Coordinator for Pioneer, and Linda Christophersen, Attorney, Bogle and Gates law firm. Summers stated he is in charge of this plant and responsible for its day to day operation. Summers added that there is no other foreman or supervisor in charge of running this concrete plant.

Summers acknowledged that there had been no discharge to the Metro Sewer System from this plant for some time because the plant's system was inoperative. Beginning about three weeks ago, all waste cement wash water was hauled out by tanker truck by Crosby and Overton (C&O) and then treated at the C&O facility for high pH. During this conversation, a tank truck from C&O pumped 5000 gallons of wastewater out of the yard. Summers stated that if the pH of the wastewater is less than 12.25 the C&O tank trucks had been hauling the wastewater to the gravel pit at Steilacom. The wastewater was then dumped into settling ponds. Summers added that there was no other treatment of the wastewater at Steilacom. He said that the Steilacom gravel pit is operated under the name of Northwest Aggregate, a joint venture with Pioneer.

Ron Summers stayed on the premises until about 6:45 PM. At that time, Summers and Christophersen were provided with a copy of items seized.

REPORT MADE BY S/A Gerd Hattwig	DATE 11-10-86
REVIEWING OFFICIAL SAIC Dixon McClary	DATE 11/10/86

This document contains neither recommendations nor conclusions of the EPA. It is the property of the EPA and is loaned to your agency; it and its contents are not to be distributed outside your agency.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF CRIMINAL INVESTIGATIONS

REPORT OF INVESTIGATION

1. TITLE  Pioneer	2. CONTROL NUMBER  86-X-4-4 #25 34W
3. PERIOD COVERED	4. REPORTING OFFICE  Seattle

SYNOPSIS:

Reference is made to ROI 86-X-4-4 #22 and #23 reporting the execution of a federal criminal search warrant on 10/9/86 at Pioneer Construction Materials Co. located at 901 Fairview Ave. North, Seattle, WA. During the execution of the warrant S/A Hattwig had a brief conversation with Gene Belonga. Belonga stated that he is employed as an equipment operator at the Lake Union facility operated by Pioneer Construction Materials. Pioneer has been operating this plant for about 2 years.

Belonga said he operates the yellow crane with a clamshell bucket which is located to the northwest of the cement waste water settling tanks. A couple of times a week he will clean out the settling tanks using the crane and clamshell. The cleaning out operation consists of dropping the clamshell bucket into the settling tank and taking out the cement waste sludge and depositing the sludge on the cement waste pile to the west and northwest of the settling tanks.

Belonga stated he also operates the front loader which he uses to scoop up the reclaimed sand and gravel out of the pit from the north end of the large screw-like device. This device is used to reclaim sand and gravel brought back by returning concrete mixer trucks which empty their wash water and leftover concrete into the screw-like device.

The reclaimed sand and gravel is also taken and deposited on the waste cement pile by means of the front loader. According to Belonga some of this material from the waste pile is used as fill by others and he will also use the front loader to fill the trucks hauling away the fill material.

Belonga added he was aware of a leak from the first cement wastewater settling tank. Belonga stated about three weeks ago he noticed the leak of wastewater from behind the metal plate on the east side of this tank. Belonga stated that he took some rags and cement to plug the leak.

Belonga terminated this conversation by climbing onto the front loader and moving away.

REPORT MADE BY  S/A Gerd Hattwig	DATE  12-16-86
REVIEWING OFFICIAL  SAIC Dixon McClary	DATE  12/22/86

This document contains neither recommendations nor conclusions of the EPA. It is the property of the EPA and is loaned to your agency; it and its contents are not to be distributed outside your agency.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF CRIMINAL INVESTIGATIONS

REPORT OF INVESTIGATION

1. TITLE  Pioneer	2. CONTROL NUMBER  86-X-4-4 #26 34W
3. PERIOD COVERED	4. REPORTING OFFICE  Seattle

SYNOPSIS:

Reference is made to ROI 86-X-4-4 #22 by S/A Commodore Mann reporting the execution of a federal criminal search warrant on 10/9/86 at Pioneer Construction Materials Co. located at 901 Fairview Ave. North, Seattle, WA.

During the execution of the search warrant, S/A Hattwig was approached by Mr. Peter Barnes, a concrete mixer truck driver. Barnes had been driving a concrete truck bearing the number 73-305. Barnes asked what the agents were doing at this facility. S/A Hattwig advised Barnes that EPA agents were taking samples pursuant to a federal search warrant. Barnes then asked if the EPA agents were here in response to a request from Pioneer Construction.

Barnes went on to explain that he reported to work at the Lake Union facility on 10/9 at approximately 7:30 AM. Barnes said he noticed that the water in Lake Union, surrounding the Pioneer plant, looked gray just like the liquid in the yard. Barnes assumed there must have been a large spill of cement wastewater into Lake Union.

Barnes stated he immediately telephoned the dispatcher on duty at the Pioneer Duwamish facility and told him that there might have been a spill of cement wastewater into Lake Union. Barnes did not get the name of the dispatcher and does not know his identity, but he recalls asking the dispatcher to take care of the situation.

Barnes concluded by saying that he thought the EPA agents had been called by Pioneer and were there at Pioneer's request.

Barnes furnished his home telephone number [REDACTED] on request.

REPORT MADE BY  S/A Gerd Hattwig	DATE  12-12-86
REVIEWING OFFICIAL  SAIC Dixon McClary	DATE  12/12/86

This document contains neither recommendations nor conclusions of the EPA. It is the property of the EPA and is loaned to your agency; it and its contents are not to be distributed outside your agency.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF CRIMINAL INVESTIGATIONS

REPORT OF INTERVIEW

1. TITLE Pioneer	2. CONTROL NUMBER 86-X-4-4 #27 34W
3. PERSON INTERVIEWED Dennis J. Brenner	4. REPORTING OFFICE Seattle 10/27/86
5. LOCATION Seattle, WA	6. DATE 10/9/86

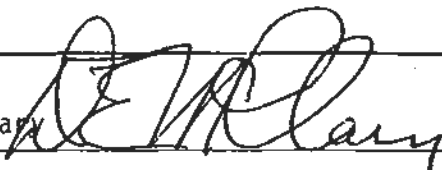
Reference is made to ROI 86-X-4-4 #22 by S/A Commodore Mann reporting the execution of a federal search warrant at the Pioneer Construction Material Company's Lake Union facility on 10/9/86. The search warrant had been issued by U.S. Magistrate Philip K. Sweigert, under Docket No. 86-274M-01, on 10/9/86.

During the execution of the above search warrant, S/A Dixon E. McClary interviewed Dennis J. Brenner, a Pioneer employee. Brenner stated that he had worked at the Lake Union facility for approximately 6 1/2 years. Brenner indicated that the Lake Union facility has been under its current ownership for approximately the past three years. Brenner stated that his job, among other things, was to fill the cement trucks with diesel fuel.

Brenner was asked about the large amount of standing liquid in the truck "yard." Brenner explained that approximately one month ago Pioneer began allowing its cement truck wash water to flow into the yard. Vacuum trucks would periodically remove some of the wash water but the vast majority would remain. Brenner continued that he was concerned about the standing liquid since the diesel fuel storage tank was located in the middle of the yard, underneath the liquid. The fill spout was reportedly submerged. Brenner indicated that he would not be able to replenish the diesel fuel in the tank when it ran out.

S/A McClary asked Brenner what Pioneer had been doing with the wash water in the past. Brenner replied that they had been disposing of it into Lake Union. Brenner continued that the wash water was discharged north of the auger through a wall directly into the lake. Brenner concluded by stating that the discharge point was now covered by a metal plate.

Brenner provided a residential address of [REDACTED]

REPORT MADE BY SAIC Dixon McClary 	DATE 11/12/86
REVIEWING OFFICIAL	DATE

## SEARCH WARRANT ON WRITTEN AFFIDAVIT

<b>United States District Court</b>		<b>DISTRICT</b> WESTERN DISTRICT OF WASHINGTON	
<b>UNITED STATES OF AMERICA</b> v. THE PIONEER CONSTRUCTION MATERIALS COMPANY, A DIVISION OF RIEDEL INTERNATIONAL, INC.		<b>DOCKET NO.</b>	<b>MAGISTRATE'S CASE NO.</b> 86-2314-01
		<b>TO:</b> Gerd Hattwig, Special Agent U.S. Environmental Protection Agency, and Special Deputy United States Marshal (or any other authorized agent).	

Affidavit(s) having been made before me by the below-named affiant that he/she has reason to believe that (on the person of) (on the premises known as) The Duwamish ready-mix concrete plant of the Pioneer Construction Materials Company, a division of Riedel International, Inc., a multi-acre industrial facility located at 5975 East Marginal Way South, Seattle, Washington, bordered on the east by East Marginal Way - First Avenue South, on the south by a chain link fence and the shoreline of Slip #2 (an inlet which appears on navigational charts of the Duwamish River), on the west by the Duwamish River shoreline, and on the north by a large building with the address 5931 E. Marginal Way South, which building is occupied by another company, the Norwest Gypsum Company. The Pioneer facility is clearly identified as such by the name Pioneer Construction Materials Company in large red letters on a two-story tan office building facing East Marginal Way South, with the name Glacier Sand and Gravel Co. in smaller green letters also appearing below the name of Pioneer. The building is further marked by the street address 5975 and the Pioneer Company's logo, a large red "P" on a green circle depicting a globe. A large metal building is also located on the premises, forming part of the eastern and southern border of the plant.

The Pioneer Construction Materials Co. plant contains a second two-story office-type building at the south west corner of the facility, a number of large tower-like structures used in concrete production, a water tower, and some large open waste water storage lagoons or trenches adjacent to a bulkhead on the southside. Further more there are a number of conveyor belts and piping connecting various structures. On and in this facility in the Western District of Washington, there is now certain property, to which the affiant and other employees of the United States

(See Attachment A)

and as I am satisfied that there is probable cause to believe that the property so described is being concealed on the person or premises above-described and the grounds for application for issuance of the search warrant exist as stated in the supporting affidavit(s).

YOU ARE HEREBY COMMANDED to search on or before September 13, 1986  
(not to exceed 10 days) the person or place named above for the property specified, serving this warrant and making the search (in the daytime — 6:00 A.M. to 10:00 P.M.) (at any time in the day or night)\* and if the property be found there to seize it, leaving a copy of this warrant and receipt for the property taken, and prepare a written inventory of the property seized and promptly return this warrant to a U.S. Magistrate  
as required by law. U.S. Judge or Magistrate

<b>NAME OF AFFIANT</b> GERD HATTWIG, Special Agent & Special Deputy U.S. Marshal	<b>SIGNATURE OF JUDGE ** OR US MAGISTRATE</b> JOHN L. WEINBERG	<b>DATE/TIME ISSUED</b> 9/13/86 9:40
---	---	---

\*If a search is to be authorized "at any time in the day or night" pursuant to Federal Rules of Criminal Procedure Rule 41(c), show reasonable cause therefor.

\*\* If Initial Officer, before an Judge of a State Court of Record.

ATTACHMENT A

Environmental Protection Agency seek access for the purpose of (1) inspecting and photographing facilities, devices and materials, (2) sampling raw materials and process and waste waters, (3) seizure of documentary evidence, these items of property further described in the attached Property List, which are evidence of violations of the Federal Water Pollution Control Act, Title 33, United States Code, Section 1251, et seq., the Rivers and Harbors Act, Title 33, United States Code, Sections 403, 407 and 411, and the Resource Conservation and Recovery Act, 42 U.S.C. Section 6928, et seq.

### Property List

1. For sampling and inspection purposes: all raw material and waste and waste water storage, treatment, and disposal areas, including those containing cement and concrete raw materials, concrete production final products, concrete production byproducts and wastes (including cooling water), concrete production equipment cleaning solutions (unused and waste); all concrete production and related waste disposal equipment and devices, including tanks, vats, lagoons, manholes, pipes, drains, trenches, conduits, valves and waste material land application areas and equipment, and affiliated structures (buildings) housing the same; all general equipment used in concrete production, including returning (mostly) empty Pioneer and Glacier Sand and Gravel trucks present on the facility during the time of execution of this warrant.

2. For sampling and inspection purposes: soil, water, and waste liquids, and other natural or man-made materials in the vicinity of the areas and devices referred to in paragraph one above.

3. For photographing purposes: all structures, buildings, offices, piping, equipment, and other areas of the Pioneer Duwamish plant.

Books, records, and files (of all sorts, including computer disks, other storage media, or printouts) indicating the following, described in the succeeding paragraphs of this list:



4. Documents indicating the name, addresses, and telephone numbers of all company employees and all documents which contain job descriptions or other material defining the nature and scope of each employee's responsibilities, and records which show time and attendance of said employees, including time cards, or other such records reflecting employment history, such records to include those of former employees no longer currently employed by the company.

5. All records for cleaning operations involved in concrete production and sale.

6. All documents indicating the chemical constituents and physical properties of concrete production raw materials, cleaners, and related waste, including but not limited to animal and plant studies, laboratory analyses, formulas, recipe books, production labels, chemical indexes and manuals, manufacturers' descriptive literature, safety literature and employee precautions.

7. Any documents, correspondence, notes, or memoranda concerning communications by or between (1) officials and employees of Riedel International, Inc., and its division, Pioneer Construction Materials (and Glacier Sand and Gravel) or (2) these company officials and employees and federal, state and local environmental, health, and industrial waste water treatment agencies which in any way relate to concrete production wastes, concrete production cleaning materials and the disposal of these wastes.

8. Documents and files demonstrating knowledge on the part of corporate officers and employees of the nature of the materials handled at Pioneer Construction Materials Co. and/or of laws regulating their disposal and use.

9. Documents, correspondence, notes, and memoranda concerning citizen complaints to Pioneer Construction Materials Co., about waste discharge.

10. Any documents relating to contracts with any transporter, treater, or disposer for the handling of concrete production waste materials.

11. Maps, sketches or other schematics of plumbing, trenches, production lines, discharge systems and pipes or cooling water systems, and records of modifications, construction or renovation of plumbing or piping including contracts, bills, payments and letters to or from contractors.

12. Records, flow meter charts, log books, and discharge monitoring notes, laboratory analyses and notebooks, and other documents concerning quantities, rates, and constituents of waste water discharge (both directly to the Duwamish River and to the sanitary sewer).

13. Records, logs, tallies or other documents reflecting accumulation rates for wastes.

14. Records, logs, tally sheets or other documents concerning concrete production quantities.

15. Facility or driver concrete truck trip log sheets and other records of use and cleaning of cement and concrete trucks

owned and/or operated by Pioneer Construction Materials Co. and Glacier Sand and Gravel Co., operated out of the Pioneer Duwamish facility.

16. Night watchman logs, records, or reports containing reference to waste water valve operation, waste discharge, equipment monitoring, and night crew employee attendance.

17. Documents reflecting the purchases, uses, and disposal of any acids at Pioneer Construction Materials Co.

18. Documents explaining operation of any computer system containing any of the above information.

## AFFIDAVIT FOR SEARCH WARRANT

United States District Court		DISTRICT WESTERN DISTRICT OF WASHINGTON	
United States of America vs. THE PIONEER CONSTRUCTION MATERIALS COMPANY, A DIVISION OF RIEDEL INTERNATIONAL, INC.		DOCKET NO.	MAGISTRATE'S CASE NO.
		NAME AND ADDRESS OF JUDGE <sup>1</sup> OR U.S. MAGISTRATE JOHN L. WEINBERG United States Magistrate 103 U.S. Courthouse Seattle, WA 98104	
The undersigned being duly sworn deposes and says: That there is reason to believe that			
<input type="checkbox"/> on the person of <input type="checkbox"/> on the premises known as		DISTRICT WESTERN DISTRICT OF WASHINGTON	
The Duwamish ready-mix concrete plant of the Pioneer Construction Materials Company, a division of Riedel International, Inc., a multi-acre industrial facility located at 5975 East Marginal Way South, Seattle, Washington, bordered on the east by East Marginal Way - First Avenue South, on the south by a chain link fence and the shoreline of Slip #2 (See Attachment B)			
The following property (or person) is concealed:			
Certain property, to which the affiant and other employees of the United States Environmental Protection Agency seek access for the purpose of (1) inspecting and photographing facilities, devices and materials, (2) sampling raw materials and process and waste waters; (3) seizure of documentary evidence, these items of property further described in the attached Property List,			
Affiant alleges the following grounds for search and seizure <sup>2</sup> :			
Violations of the Federal Water Pollution Control Act, Title 33, United States Code, Section 1251, et seq.; the Rivers and Harbors Act, Title 33, United States Code, Sections 403, 407 and 411; and the Resource Conservation and Recovery Act 42 U.S.C. Section 6928, et seq.			
<input type="checkbox"/> See attached affidavit which is incorporated as part of this affidavit for search warrant			
Affiant states the following facts establishing the foregoing grounds for issuance of a Search Warrant			
See attached affidavit of Gerd Hattwig.			
SIGNATURE OF AFFIANT  GERD HATTWIG		OFFICIAL TITLE, IF ANY  Special Agent & Special Deputy, U.S. Marshal	
Sworn to before me, and subscribed in my presence:			
DATE  September 2, 1986	JUDGE <sup>1</sup> OR US MAGISTRATE  JOHN L. WEINBERG		

<sup>1</sup>United States Judge or Judge of a State Court of Record.<sup>2</sup>If a search is to be authorized "at any time in the day or night" pursuant to Federal Rules of Criminal Procedure 41(c), show reasonable cause therefor.

## ATTACHMENT B

(an inlet which appears on navigational charts of the Duwamish River), on the west by the Duwamish River shoreline, and on the north by a large building with the address 5931 E. Marginal Way South, which building is occupied by another company, the Norwest Gypsum Company. The Pioneer facility is clearly identified as such by the name Pioneer Construction Materials Company in large red letters on a two-story tan office building facing East Marginal Way South, with the name Glacier Sand and Gravel Co. in smaller green letters also appearing below the name of Pioneer. The building is further marked by the street address 5975 and the Pioneer Company's logo, a large red "P" on a green circle depicting a globe. A large metal building is also located on the premises, forming part of the eastern and southern border of the plant.

A F F I D A V I T

GERD R. HATTWIG, being first duly sworn on oath, states:

1. I am a Special Agent with the United States Environmental Protection Agency (hereafter "EPA") Office of Criminal Investigations located in Seattle, Washington. In my current position, I am also a Special Deputy United States Marshal and am authorized to obtain and execute search warrants.

2. I am responsible for, among other things, conducting investigations of criminal violations of several environmental statutes, including the Federal Water Pollution Control Act (33 U.S.C. §§ 1251, et seq.), commonly referred to as the Clean Water Act (CWA), the Rivers and Harbors Act (33 U.S.C. §§ 403, 407, and 411), and the Resource Conservation and Recovery Act (hereafter, "RCRA"), 42 U.S.C. § 6901, et seq.

The CWA bans the discharge of any pollutant into a navigable water via a "point source" except in compliance with a previously obtained permit under the National Pollutant Discharge Elimination System (NPDES), 33 U.S.C. §§ 1311(a), 1319(c)(1), and 1342. "Pollutant" is broadly defined to include, inter alia, "sewage, garbage, chemical wastes, biological materials . . . and industrial . . . and agricultural waste discharged into water." 33 U.S.C. § 1362(6). A "point source" is also broadly defined as "any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, . . . from which pollutants are or may be

UNITED STATES ATTORNEY  
3600 Seafirst Fifth Avenue Plaza  
Seattle, WA 98104  
(206) 442-7970

AFFIDAVIT OF HATTWIG - 1  
(8496C)

1 discharged." 33 U.S.C. § 1362(14). NPDES permits are available  
2 from the State of Washington Department of Ecology (DOE) and from  
3 EPA, upon application and acceptance of conditions usually  
4 required in such permits (such as effluent limits). Section 402  
5 of the CWA, 33 U.S.C. § 1342, establishes the NPDES permit system  
6 as a basic mechanism for enforcing the effluent and water quality  
7 standards applicable to direct discharges into navigable waters.  
8 The CWA provides for criminal penalties for willfully or  
9 negligently: (a) discharging pollutants into navigable waters  
10 without an NPDES permit for the particular discharge, and  
11 (b) violating conditions contained in any NPDES permit. 33 U.S.C.  
12 § 1319(c)(1).

13 The Rivers and Harbors Act makes criminal the discharge  
14 of "refuse" into navigable waters without a permit. 33 U.S.C.  
15 §§ 403, 407, and 411. Courts interpreting the term "refuse" have  
16 broadly defined it to include virtually all wastes.

17 RCRA was enacted in 1976 as a Congressional response to the  
18 growing number of hazardous waste sites resulting from unregulated  
19 waste disposal practices. 5 U.S. Code Cong. & Admin. News 6441  
20 (1976). The objectives of this statute include, inter alia,  
21 protection of human health and the environment through stringent  
22 regulation of the treatment, storage, transportation, and disposal  
23 of hazardous waste. 42 U.S.C. § 6902. The Act accomplishes its  
24 objectives by creating a "cradle-to-grave" regulatory scheme to  
25 govern and track hazardous wastes from the point of generation  
26 until their final disposal.

UNITED STATES ATTORNEY  
3600 Seafirst Fifth Avenue Plaza  
Seattle, WA 98104  
(206) 442-7970

1 First, the statute requires the EPA to identify and list  
2 solid wastes which meet the statutory definition of a hazardous  
3 waste.<sup>1/</sup> These identified and listed hazardous wastes are then  
4 further subject to regulations established by the EPA regarding  
5 the handling of such wastes. 42 U.S.C. § 6921. The majority of  
6 these regulations, including those listing and identifying  
7 hazardous wastes, were promulgated on May 19, 1980, and became  
8 effective on November 19, 1980. See generally 40 C.F.R. Part 261.

9 Once a waste is listed as hazardous, it is subject to  
10 regulation unless the generating facility petitions for and  
11 obtains an exclusion from regulation by demonstrating that the  
12

13 1/ The statute defines "hazardous waste" as:

14 [A] solid waste, or combination of solid  
15 wastes, which because of its quantity,  
16 concentration, or physical, chemical or  
infectious characteristics may --

17 (A) cause, or significantly contribute  
18 to an increase in mortality or an  
increase in serious irreversible, or  
incapacitating reversible illness; or

19 (B) pose a substantial present or  
20 potential hazard to human health or the  
21 environment when improperly treated,  
stored, transported, or disposed of, or  
otherwise managed.

22 The term "solid waste" is defined in § 6903(27) as:

23 [A]ny garbage, refuse, sludge from a waste  
24 treatment plant . . . and other discarded  
25 material including solid, liquid, semisolid or  
26 contained gaseous material resulting from  
industrial, commercial, mining and  
agricultural activities . . . .

UNITED STATES ATTORNEY  
3600 Seafirst Fifth Avenue Plaza  
Seattle, WA 98104  
(206) 442-7970



1 waste does not meet any of the hazardous criteria under which it  
2 was listed. See 40 C.F.R. § 261.3(c) and 260.22. Individual  
3 waste generators must identify their own wastes as hazardous, see  
4 42 U.S.C. § 6922 and 40 C.F.R. § 262.11, and must then arrange  
5 for the proper transportation, treatment, storage, and disposal  
6 of the waste in accordance with the statute and applicable  
7 regulations. 42 U.S.C. § 6922 and 40 C.F.R. Part 262.  
8 Specifically, arrangement must be made to treat, store, or  
9 dispose of the wastes at a facility permitted, pursuant to RCRA,  
10 to handle such wastes.

11 The treatment, storage, or disposal of hazardous wastes may  
12 take place only at a facility properly issued a RCRA permit, 42  
13 U.S.C. §§ 6925 and 6926, whether the facility is owned and  
14 operated by the waste generator or an unrelated party. These  
15 permits impose regulatory conditions specifically tailored to the  
16 type of activity at a particular facility and the facility may  
17 only handle those wastes and perform those activities covered by  
18 its permit. See 40 C.F.R. Part 264.

19 Recognizing that the process of issuing RCRA permits would  
20 take a significant period of time, Congress created a mechanism  
21 whereby existing hazardous waste treatment, storage, and disposal  
22 facilities could remain in operation from the effective date of  
23 the regulations until the issuance of a permit. Thus, a facility  
24 was considered to have "interim status", and treated as having a  
25 permit, if it met the following conditions: (1) it was in  
26 existence on November 19, 1980; (2) the appropriate notice of

UNITED STATES ATTORNEY  
3600 Seafirst Fifth Avenue Plaza  
Seattle, WA 98104  
(206) 442-7970

1 hazardous waste activity was given to EPA; and (3) an application  
2 for a permit was made by November 19, 1980,<sup>2/</sup> with modification  
3 later as appropriate based upon changed circumstances.<sup>3/</sup>  
4 42 U.S.C. § 6925(e). However, the permit status is strictly  
5 limited to only those activities described in the permit  
6 application, or subsequent modified application. 40 C.F.R.  
7 § 270.71. Thus, where a permit application maintains that the  
8 facility stores hazardous waste only, disposal is not permitted.  
9 Nor is the storage or disposal of hazardous waste in a manner  
10 other than that specified in the application allowed. 40 C.F.R.  
11 § 270.71. A facility may only treat, store, or dispose of those  
12 wastes specifically listed and described in the permit  
13 application. Interim status facilities are also subject to  
14 regulations similar to those which will later be applied to the  
15 facility through a final RCRA permit. See 40 C.F.R. Part 265.

16 Section 6926 of RCRA provides a mechanism whereby a State  
17 may seek authorization from the Administrator of EPA to  
18 administer a hazardous waste program within the State. The  
19

20 <sup>2/</sup> November 19, 1980, is the effective date for EPA's  
21 hazardous waste regulatory program.

22 <sup>3/</sup> A land disposal facility qualifying for interim status  
23 prior to November 9, 1984, would maintain this status after  
24 November 9, 1985, only if the owner or operator of the facility  
25 applied for final permit determination prior to that date and  
26 certified that the facility was in compliance with all  
applicable groundwater monitoring and financial responsibility  
requirements. 42 U.S.C. § 6925(e). If these requirements were  
not met, the facility would be considered to be operating  
without a permit.

UNITED STATES ATTORNEY

3600 Seafirst Fifth Avenue Plaza  
Seattle, WA 98104

(206) 442-7970

1 Administrator of EPA will authorize such a program if the State  
2 demonstrates, among other things, that its proposed program is  
3 equivalent to the federal program. Once a State receives  
4 authorization pursuant to section 6926, then the State  
5 regulations apply, in lieu of the Federal regulations, for  
6 purposes of determining whether the material is in fact a  
7 hazardous waste and therefore is subject to regulation. The  
8 State of Washington received authorization from EPA to carry out  
9 a hazardous waste program on August 2, 1983.

10 The criminal enforcement provisions of RCRA provide, inter  
11 alia, at 42 U.S.C. § 6928(d)(1) (as amended by the Hazardous and  
12 Solid Waste Amendments of 1984 - P.L. 98-616, 98 Stat. 3661) that:

13 any person who --

14 (1) knowingly transports or causes to be  
15 transported any hazardous waste  
16 identified or listed under this  
17 subchapter to a facility which does not  
18 have a permit under section 6925 of this  
19 title (or section 6926) of this title in  
20 case of a State program) . . . .

21 (2) knowingly treats, stores, or  
22 disposes of any hazardous waste . . .  
23 without having obtained a permit . . .

24 shall be guilty of an offense.

25 3. Since May 1986, I have been conducting an investigation  
26 of unpermitted discharges of wastes into the environment, both  
land and water, at and near Slip #2 of the Duwamish River,  
Seattle, Washington, from a ready mix concrete plant operated by  
Pioneer Construction Materials Company, identified in the  
telephone directory and Dun and Bradstreet reports as a division

UNITED STATES ATTORNEY  
3600 Seafirst Fifth Avenue Plaza  
Seattle, WA 98104  
(206) 442-7970

1 of Riedel International, Inc. This plant is located at 5975 East  
2 Marginal Way South in Seattle, Washington. From my personal  
3 observations I know the facility consists of a number of gray  
4 tall tower-like structures commonly associated with cement  
5 plants, a water tank tower, a truck wash area (consisting of  
6 concrete and earth), one 2-story office building next to the  
7 truck wash area and one 2-story office building facing East  
8 Marginal Way. This plant is also bordered on the west side by  
9 the waters of the Duwamish and bordered on the south side by the  
10 waters of the Duwamish in an inlet referred to on navigational  
11 charts as Slip #2.

12 The facility is labeled both Pioneer Construction  
13 Materials Company and Glacier Sand and Gravel Co. The telephone  
14 directory listing for Glacier Sand and Gravel says to call  
15 Pioneer. According to the receptionist at the Pioneer number,  
16 Pioneer "bought out" Glacier.

17 4. I have examined the files of the EPA in Seattle  
18 regarding the Pioneer Construction Materials Company, Riedel  
19 International, Inc., and Glacier Sand and Gravel Company, and  
20 have consulted with the Washington State Department of Ecology  
21 ("DOE") office for the Seattle area. According to the files of  
22 both agencies, there are no records of any NPDES permit or permit  
23 application for this facility on file. Nor are there any RCRA  
24 permits on file for the disposal of hazardous wastes at the  
25 Pioneer facility on Slip #2.

26

UNITED STATES ATTORNEY  
3600 Seafirst Fifth Avenue Plaza  
Seattle, WA 98104  
(206) 442-7970

1           5.    On May 1, 1986, Richard Koch, an Engineer with the DOE  
2 assigned to the DOE Northwest office, conducted an inspection at  
3 the Pioneer Duwamish plant. Koch personally observed (and  
4 photographed) the facilities. He learned that the facility  
5 premixes concrete from raw materials for shipment to construction  
6 sites. Wastes solids from mostly empty trucks returning from  
7 deliveries are placed in metal forms to solidify into "ecology  
8 blocks" (meaning of non-structural strength). The trucks are  
9 washed a truck wash area, with waste solids partially collected  
10 in a trench area. According to Koch's observations, the wash pad  
11 area allows waste water containing concrete wastes to escape from  
12 the facility, through various channels in the adjoining  
13 structures. Koch personally observed contaminated waste waters  
14 leaving the plant via surface runoff headed for the Duwamish at  
15 the time of his visit. Koch met with Plant Manager Ron Summers  
16 on May 1 and discussed with Summers the need for an NPDES permit  
17 for any discharges into the Duwamish. During conversations with  
18 Summers, Koch was told that the plant does not routinely  
19 discharge into the Duwamish and therefore does not need an NPDES  
20 permit. On May 2, 1986, Koch wrote to Summers and again informed  
21 him of the need for an NPDES permit for any discharges into the  
22 Duwamish. Along with the letter of May 2, 1986, Mr. Koch mailed  
23 an NPDES permit application and instructions to Summers.

24           6.    On May 12, 1986, Mr. Koch had a telephone conversation  
25 with Ron Summers, during which Summers stated he did not intend  
26

UNITED STATES ATTORNEY  
3600 Seafirst Fifth Avenue Plaza  
Seattle, WA 98104  
(206) 442-7970

1 to apply for an NPDES permit because there would be no further  
2 discharges from Pioneer into the Duwamish. Summers explained  
3 that temporary measures had been taken to eliminate any  
4 discharges into the Duwamish and, as part of new construction,  
5 the changes would be permanently incorporated for a long term  
6 solution.

7       7. Subsequent to May 12, 1986, numerous recreational users  
8 of the Duwamish (members of a boating class) and several EPA  
9 Special Agents have personally made observations, taken  
10 photographs and/or made video recordings of numerous unpermitted  
11 discharges by the Pioneer plant into the Duwamish. The latest  
12 such discharge was observed by your affiant on August 27, 1986.  
13 The discharges appear to be from a variety of locations at the  
14 facility, along the property line that adjoins Slip #2. For  
15 example, it appears that a pipe or tunnel is buried in a concrete  
16 wall that stands along the river inlet, with a discharge point  
17 right above an earthen embankment. The pipe has a loose fitting  
18 cover plate, which appears to be more for concealment purposes  
19 than for blockage, because on numerous occasions your affiant has  
20 seen a steady stream of concrete waste waters splashing off the  
21 plate and running down the concrete wall to the earthen  
22 embankment, then into the Duwamish. On each of these occasions,  
23 an obvious, distinct cloud in the river water occurs from the  
24 concrete chemicals. The wall and the earthen embankment are  
25 stained grey from the obviously consistent discharges.

26

UNITED STATES ATTORNEY  
3600 Seafirst Fifth Avenue Plaza  
Seattle, WA 98104  
(206) 442-7970

1           These discharges occur in the late afternoon and early  
2 evening, during the hours when trucks return to the facility from  
3 the day's deliveries. The trucks I have observed regularly  
4 entering and leaving the facility are marked either Pioneer or  
5 Glacier Sand and Gravel Co. The truck wash area, as previously  
6 discussed, drains into trenches and concrete holding ponds which  
7 must either overflow or be purposely drained via pipes onto the  
8 embankment adjoining the Duwamish.

9           8. At various times samples of the Duwamish river waters  
10 have been taken from the location where discharges from Pioneer  
11 enter the waters of the Duwamish. For example, samples taken on  
12 June 13, 1986, and analyzed by the EPA Lab in Manchester,  
13 Washington, yielded the following results: all water samples  
14 taken that day were a hazardous waste as defined in 40 C.F.R.  
15 § 261.22 (characteristic of corrosivity) by being aqueous and  
16 having a pH greater than or equal to 12.5, as determined by a pH  
17 meter using either an EPA test method or an equivalent test  
18 method. This extreme alkalinity is a common byproduct of  
19 concrete chemical constituents, which is the reason that effluent  
20 guidelines have been promulgated by EPA for concrete plants. An  
21 alkalinity this high is sufficient to cause skin burns and  
22 certainly to kill various forms of aquatic life. EPA studies  
23 show plants complying with the law commonly recycle wash waters  
24 into new batches or use acids to neutralize alkalinity of waste  
25 waters.

26

UNITED STATES ATTORNEY  
3600 Seafirst Fifth Avenue Plaza  
Seattle, WA 98104  
(206) 442-7970

1           9.     Since records of EPA and DOE show no permit  
2 authorization for disposal of these highly corrosive wastes in  
3 the manner done, i.e., by discharging them into the soil and  
4 water near or on the shoreline of the Duwamish (and none,  
5 obviously, would ever be granted), I have reason to believe that  
6 illegal disposals of hazardous wastes have occurred, in violation  
7 of RCRA, in addition to the obvious violations of the Clean Water  
8 Act and the River and Harbors Act, when portions of these  
9 materials were allowed to enter the ground.

10           10.    Based on my experience with the IRS and EPA, and my  
11 familiarity with industrial facilities gained through discussions  
12 with other employees of the EPA and DOE, it is likely that  
13 Pioneer (including Glacier), and its employees maintain business  
14 records for the purpose of billing and preparing business tax  
15 returns. Usually, such records are kept in payment records,  
16 general ledgers, invoices and billing statements, and related  
17 computer files. These records will show the frequency of use of  
18 the trucks transporting concrete. In addition, the company's  
19 records should indicate what raw materials were purchased for use.

20           In my experience, facilities that use and handle potentially  
21 hazardous chemical materials of the sort used by Pioneer  
22 generally have documents containing safety information describing  
23 the nature and hazards of the chemicals they use, and handling  
24 precautions for employee safety. Washington State law now  
25 requires such information to be maintained and provided to  
26 employees.

UNITED STATES ATTORNEY  
3600 Seafirst Fifth Avenue Plaza  
Seattle, WA 98104  
(206) 442-7970

AFFIDAVIT OF HATTWIG - 11  
(8496C)



Lastly, the company must maintain employee records for tax and other purposes.

GERD R. HATTWIG  
Special Agent  
United States Environmental  
Protection Agency

SWORN TO before me this \_\_\_\_\_ day of \_\_\_\_\_, 1986.

UNITED STATES MAGISTRATE

UNITED STATES ATTORNEY  
3600 Seafirst Fifth Avenue Plaza  
Seattle, WA 98104  
(206) 442-7970

### Property List

1. For sampling and inspection purposes: all raw material and waste and waste water storage, treatment, and disposal areas, including those containing cement and concrete raw materials, concrete production final products, concrete production byproducts and wastes (including cooling water), concrete production equipment cleaning solutions (unused and waste); all concrete production and related waste disposal equipment and devices, including tanks, vats, lagoons, manholes, pipes, drains, trenches, conduits, valves and waste material land application areas and equipment, and affiliated structures (buildings) housing the same; all general equipment used in concrete production, including returning (mostly) empty Pioneer and Glacier Sand and Gravel trucks present on the facility during the time of execution of this warrant.

2. For sampling and inspection purposes: soil, water, and waste liquids, and other natural or man-made materials in the vicinity of the areas and devices referred to in paragraph one above.

3. For photographing purposes: all structures, buildings, offices, piping, equipment, and other areas of the Pioneer Duwamish plant.

Books, records, and files (of all sorts, including computer disks, other storage media, or printouts) indicating the following, described in the succeeding paragraphs of this list:

4. Documents indicating the name, addresses, and telephone numbers of all company employees and all documents which contain job descriptions or other material defining the nature and scope of each employee's responsibilities, and records which show time and attendance of said employees, including time cards, or other such records reflecting employment history, such records to include those of former employees no longer currently employed by the company.

5. All records for cleaning operations involved in concrete production and sale.

6. All documents indicating the chemical constituents and physical properties of concrete production raw materials, cleaners, and related waste, including but not limited to animal and plant studies, laboratory analyses, formulas, recipe books, production labels, chemical indexes and manuals, manufacturers' descriptive literature, safety literature and employee precautions.

7. Any documents, correspondence, notes, or memoranda concerning communications by or between (1) officials and employees of Riedel International, Inc., and its division, Pioneer Construction Materials (and Glacier Sand and Gravel) or (2) these company officials and employees and federal, state and local environmental, health, and industrial waste water treatment agencies, which in any way relate to concrete production wastes, concrete production cleaning materials and the disposal of these wastes.

8. Documents and files demonstrating knowledge on the part of corporate officers and employees of the nature of the materials handled at Pioneer Construction Materials Co. and/or of laws regulating their disposal and use.

9. Documents, correspondence, notes, and memoranda concerning citizen complaints to Pioneer Construction Materials Co., about waste discharge.

10. Any documents relating to contracts with any transporter, treater, or disposer for the handling of concrete production waste materials.

11. Maps, sketches or other schematics of plumbing, trenches, production lines, discharge systems and pipes or cooling water systems, and records of modifications, construction or renovation of plumbing or piping including contracts, bills, payments and letters to or from contractors.

12. Records, flow meter charts, log books, and discharge monitoring notes, laboratory analyses and notebooks, and other documents concerning quantities, rates, and constituents of waste water discharge (both directly to the Duwamish River and to the sanitary sewer).

13. Records, logs, tallies or other documents reflecting accumulation rates for wastes.

14. Records, logs, tally sheets or other documents concerning concrete production quantities.

15. Facility or driver concrete truck trip log sheets and other records of use and cleaning of cement and concrete trucks

owned and/or operated by Pioneer Construction Materials Co. and Glacier Sand and Gravel Co., operated out of the Pioneer Duwamish facility.

16. Night watchman logs, records, or reports containing reference to waste water valve operation, waste discharge, equipment monitoring, and night crew employee attendance.

17. Documents reflecting the purchases, uses, and disposal of any acids at Pioneer Construction Materials Co.

18. Documents explaining operation of any computer system containing any of the above information.

## SEARCH WARRANT ON WRITTEN AFFIDAVIT

United States District Court	DISTRICT WESTERN DISTRICT OF WASHINGTON	
UNITED STATES OF AMERICA v.	DOCKET NO.	MAGISTRATE'S CASE NO. 76-00111-1
THE PIONEER CONSTRUCTION MATERIALS COMPANY, A DIVISION OF RIEDEL INTERNATIONAL, INC.	TO: Gerd Hattwig, Special Agent U.S. Environmental Protection Agency, and Special Deputy United States Marshal (or any other authorized agent).	

Affidavit(s) having been made before me by the below-named affiant that he/she has reason to believe that (on the person of) (on the premises known as) The Lake Union ready-mix concrete plant of the Pioneer Construction Materials Company, a division of Riedel International, Inc., a multi-acre industrial facility located at 901 Fairview Avenue North, Seattle, Washington. The Pioneer Construction Materials facility is clearly identified as such by a large sign. This sign is located by the main entrance on the west side of the property. This property is bordered on the south side by a two-story office building, which also forms a part of the western border along with the western entrance gate and a fence which ends to the north at the water's edge of Lake Union. Lake Union then forms the rest of the western, northern, and eastern border of this property, as part of the plant (a loading pier) is built into Lake Union. A fence to the water's edge forms the rest of the eastern boundary and a truck gate and a section of chain link fence on the south side of the plant complete the boundary. Both entrances to the plant and the plant are clearly marked with signs identifying it as Pioneer Construction Materials Company.

The facility consists of a main cement plant, an attached two story office building and several other detached buildings, including a small, two story office-type building at the approximate center of the property. Affixed to the main cement plant are a number of large tower-like structures and a water tower. Near the northern boundary are waste storage lagoons or settling tanks built out into Lake Union and attached to the bulkhead. There are also conveyor belts and piping connecting various structures. On and in this facility in the Western District of Washington, there is now certain property, to which the affiant and other employees of the United States Environmental Protection Agency seek access for the purpose of (1) inspecting and photographing facilities, devices and materials, (2) sampling raw materials and process and waste waters; (3) seizure of documentary evidence, these items of property further described in the attached Property List (Attachment B).

and as I am satisfied that there is probable cause to believe that the property so described is being concealed on the person or premises above-described and the grounds for application for issuance of the search warrant exist as stated in the supporting affidavit(s).

YOU ARE HEREBY COMMANDED to search on or before October 19, 1986  
(not to exceed 10 days) the person or place named above for the property specified, serving this warrant and making the search (in the daytime — 6:00 A.M. to 10:00 P.M.) (at any time in the day or night)\* and if the property be found there to seize it, leaving a copy of this warrant and receipt for the property taken, and prepare a written inventory of the property seized and promptly return this warrant to a U.S. Magistrate  
as required by law. U.S. Judge or Magistrate

NAME OF AFFIANT GERD HATTWIG, Special Agent & Special Deputy U.S. Marshal	SIGNATURE OF JUDGE ** OR US MAGISTRATE  PHILIP K. SWEIGERT	DATE/TIME ISSUED
--	--	------------------

\*If a search is to be authorized "at any time in the day or night" pursuant to Federal Rules of Criminal Procedure Rule 41(c), show reasonable cause therefor.

\*\*United States Judge or Judge of a State Court of Record

RETURN

DATE WARRANT RECEIVED

DATE AND TIME WARRANT EXECUTED

COPY OF WARRANT AND RECEIPT FOR ITEMS LEFT WITH

INVENTORY MADE IN THE PRESENCE OF

INVENTORY OF PROPERTY TAKEN PURSUANT TO THE WARRANT

A CERTIFIED COPY

9 October 1986

COPY

ORIGINAL  
SIGNED

PHILIP J. CHAPMAN

U. S. MAGISTRATE

WESTERN DISTRICT OF WASHINGTON

CERTIFICATION

I swear that this inventory is a true and detailed account of all the property taken by me on the warrant.

Subscribed, sworn to, and returned before me this date.

U.S. Judge or Magistrate

Date

ATTACHMENT B

Property List

1. SAMPLING AND INSPECTION: all raw material and waste and waste water storage, treatment, and disposal areas, including those containing cement and concrete raw materials, concrete production final products, concrete production byproducts and wastes, concrete production equipment cleaning solutions (unused and waste); all concrete production and related waste disposal equipment and devices, including tanks, vats, lagoons, manholes, pipes, drains, trenches, conduits, valves and waste material land application areas and equipment, and affiliated structures (buildings) housing the same; all general equipment used in concrete production, including returning (mostly) empty Pioneer and Glacier Sand and Gravel trucks present on the facility during the time of execution of this warrant; soil, water, and waste liquids, and other natural or man-made materials in the vicinity of the areas and devices referred to above.

2. PHOTOGRAPHY: all structures, buildings, offices, piping, equipment, and other areas of the Pioneer Lake Union plant.

3. DOCUMENTS AND FILES: all sorts, including books, records, computer disks, other storage media, or printouts including but not limited to the following;

a. Documents indicating the name, addresses, and telephone numbers of all company employees and all documents



which contain job descriptions or other material defining the nature and scope of each employee's responsibilities, and records which show time and attendance of said employees, including time cards, or other such records reflecting employment history, such records to include those of former employees no longer currently employed by the company;

b. All records for cleaning operations involved in concrete production and sale;

c. All documents indicating the chemical constituents and physical properties of concrete production raw materials, cleaners, and related waste, including but not limited to animal and plant studies, laboratory analyses, formulas, recipe books, production labels, chemical indexes and manuals, manufacturers' descriptive literature, safety literature and employee precautions;

d. Any documents, correspondence, notes, or memoranda concerning communications by or between (1) officials and employees of Riedel International, Inc., and its division, Pioneer Construction Materials (and Glacier Sand and Gravel) or Lone Star Industries, Inc., or (2) these company officials and employees and federal, state and local environmental, health, and industrial waste water treatment agencies which in any way relate to concrete production wastes, concrete production cleaning materials and the disposal of these wastes;

e. Documents and files demonstrating knowledge on the part of corporate officers and employees of the nature of the

materials handled at Pioneer Construction Materials Co. and/or of laws regulating their disposal and use;

f. Documents, correspondence, notes, and memoranda concerning citizen complaints to Pioneer Construction Materials Co., Lone Star Industries, Inc., about waste discharge;

g. Any documents relating to contracts with any transporter, treater, or disposer for the handling of concrete production waste materials;

h. Maps, sketches or other schematics of plumbing, trenches, production lines, discharge systems and pipes or cooling water systems, and records of modifications, construction or renovation of plumbing or piping including contracts, bills, payments and letters to or from contractors;

i. Records, flow meter charts, log books, and discharge monitoring notes, laboratory analyses and notebooks, and other documents concerning quantities, rates, and constituents of waste water discharge (both directly to Lake Union and to the sanitary sewer);

j. Records, logs, tallies or other documents reflecting accumulation rates for wastes;

k. Records, logs, tally sheets or other documents concerning concrete production quantities;

l. Facility or driver concrete truck trip log sheets and other records of use and cleaning of cement and concrete trucks owned and/or operated by Pioneer Construction Materials

Co. and Glacier Sand and Gravel Co., operated out of the Pioneer Lake Union facility;

m. Night watchman logs, records, or reports containing reference to waste water valve operation, waste discharge, equipment monitoring, and night crew employee attendance;

n. Documents reflecting the purchases, uses, and disposal of any acids at Pioneer Construction Materials Co.;

o. Documents explaining operation of any computer system containing any of the above information.

AFFIDAVIT FOR SEARCH WARRANT

<b>United States District Court</b>	DISTRICT WESTERN DISTRICT OF WASHINGTON	
United States of America vs.	DOCKET NO.	MAGISTRATE'S CASE NO. 86-274M-01
THE PIONEER CONSTRUCTION MATERIALS COMPANY, A DIVISION OF RIEDEL INTERNATIONAL, INC.	NAME AND ADDRESS OF JUDGE <sup>1</sup> OR U.S. MAGISTRATE PHILIP K. SWEIGERT United States Magistrate 304 U.S. Courthouse Seattle, WA 98104	

The undersigned being duly sworn deposes and says: That there is reason to believe that

<input type="checkbox"/> on the person of <input type="checkbox"/> on the premises known as	DISTRICT WESTERN DISTRICT OF WASHINGTON
The Lake Union ready-mix concrete plant of the Pioneer Construction Materials Company, a division of Riedel International, Inc., a multi-acre industrial facility located at 901 Fairview Avenue North, Seattle, Washington. The Pioneer Construction Materials facility is clearly identified as such by a large sign. This sign is located by the main entrance on the west side of the property. (See Attachment A)	

The following property (or person) is concealed:

Certain property, to which the affiant and other employees of the United States Environmental Protection Agency seek access for the purpose of (1) inspecting and photographing facilities, devices and materials, (2) sampling raw materials and process and waste waters; (3) seizure of documentary evidence, these items of property further described in the attached Property List (Attachment B),
--

Affiant alleges the following grounds for search and seizure<sup>2</sup>:

Violations of the Federal Water Pollution Control Act, Title 33, United States Code, Section 1251, et seq.; the Rivers and Harbors Act, Title 33, United States Code, Sections 403, 407 and 411; and the Resource Conservation and Recovery Act 42 U.S.C. Section 6928, et seq.
---

☐ See attached affidavit which is incorporated as part of this affidavit for search warrant

Affiant states the following facts establishing the foregoing grounds for issuance of a Search Warrant

See attached affidavit of Gerd Hattwig (Attachment C).
--

A CERTIFIED COPY

10 October 1986

COPY ORIGINAL SIGNED PHILIP K. SWEIGERT

U. S. MAGISTRATE  
WESTERN DISTRICT OF WASHINGTON

SIGNATURE OF AFFIANT  GERD HATTWIG	OFFICIAL TITLE, IF ANY  Special Agent & Special Deputy, U.S. Marshal
Sworn to before me, and subscribed in my presence: DATE  October 9, 1986	JUDGE <sup>1</sup> OR US MAGISTRATE  PHILIP K. SWEIGERT

<sup>1</sup>United States Judge or Judge of a State Court of Record.

<sup>2</sup>If a search is to be authorized "at any time in the day or night" pursuant to Federal Rules of Criminal Procedure 41(c), show reasonable cause therefor.

#### ATTACHMENT A

This property is bordered on the south side by a two-story office building and warehouse, which also forms a part of the western border along with the western entrance gate and a fence which ends to the north at the water's edge of Lake Union. Lake Union then forms the rest of the western, northern, and eastern border of this property, as part of the plant (a loading pier) is built into Lake Union. A fence to the water's edge forms the rest of the eastern boundary and a truck gate and a section of chain link fence on the south side of the plant complete the boundary. Both entrances to the plant and the plant are clearly marked with signs identifying it as Pioneer Construction Materials Company.

The facility consists of a main cement plant, an attached two story office building and several other detached buildings, including a small, two story office-type building at the approximate center of the property. Affixed to the main cement plant are a number of large tower-like structures and a water tower. Near the northern boundary are waste storage lagoons or settling tanks built out into Lake Union and attached to the bulkhead. There are also conveyor belts and piping connecting various structures.

## ATTACHMENT B

### Property List

1. SAMPLING AND INSPECTION: all raw material and waste and waste water storage, treatment, and disposal areas, including those containing cement and concrete raw materials, concrete production final products, concrete production byproducts and wastes, concrete production equipment cleaning solutions (unused and waste); all concrete production and related waste disposal equipment and devices, including tanks, vats, lagoons, manholes, pipes, drains, trenches, conduits, valves and waste material land application areas and equipment, and affiliated structures (buildings) housing the same; all general equipment used in concrete production, including returning (mostly) empty Pioneer and Glacier Sand and Gravel trucks present on the facility during the time of execution of this warrant; soil, water, and waste liquids, and other natural or man-made materials in the vicinity of the areas and devices referred to above.

2. PHOTOGRAPHY: all structures, buildings, offices, piping, equipment, and other areas of the Pioneer Lake Union plant.

3. DOCUMENTS AND FILES: all sorts, including books, records, computer disks, other storage media, or printouts including but not limited to the following;

a. Documents indicating the name, addresses, and telephone numbers of all company employees and all documents

which contain job descriptions or other material defining the nature and scope of each employee's responsibilities, and records which show time and attendance of said employees, including time cards, or other such records reflecting employment history, such records to include those of former employees no longer currently employed by the company;

b. All records for cleaning operations involved in concrete production and sale;

c. All documents indicating the chemical constituents and physical properties of concrete production raw materials, cleaners, and related waste, including but not limited to animal and plant studies, laboratory analyses, formulas, recipe books, production labels, chemical indexes and manuals, manufacturers' descriptive literature, safety literature and employee precautions;

d. Any documents, correspondence, notes, or memoranda concerning communications by or between (1) officials and employees of Riedel International, Inc., and its division, Pioneer Construction Materials (and Glacier Sand and Gravel) or Lone Star Industries, Inc., or (2) these company officials and employees and federal, state and local environmental, health, and industrial waste water treatment agencies which in any way relate to concrete production wastes, concrete production cleaning materials and the disposal of these wastes;

e. Documents and files demonstrating knowledge on the part of corporate officers and employees of the nature of the

materials handled at Pioneer Construction Materials Co. and/or of laws regulating their disposal and use;

f. Documents, correspondence, notes, and memoranda concerning citizen complaints to Pioneer Construction Materials Co., Lone Star Industries, Inc., about waste discharge;

g. Any documents relating to contracts with any transporter, treater, or disposer for the handling of concrete production waste materials;

h. Maps, sketches or other schematics of plumbing, trenches, production lines, discharge systems and pipes or cooling water systems, and records of modifications, construction or renovation of plumbing or piping including contracts, bills, payments and letters to or from contractors;

i. Records, flow meter charts, log books, and discharge monitoring notes, laboratory analyses and notebooks, and other documents concerning quantities, rates, and constituents of waste water discharge (both directly to Lake Union and to the sanitary sewer);

j. Records, logs, tallies or other documents reflecting accumulation rates for wastes;

k. Records, logs, tally sheets or other documents concerning concrete production quantities;

l. Facility or driver concrete truck trip log sheets and other records of use and cleaning of cement and concrete trucks owned and/or operated by Pioneer Construction Materials



Co. and Glacier Sand and Gravel Co., operated out of the Pioneer Lake Union facility;

m. Night watchman logs, records, or reports containing reference to waste water valve operation, waste discharge, equipment monitoring, and night crew employee attendance;

n. Documents reflecting the purchases, uses, and disposal of any acids at Pioneer Construction Materials Co.;

o. Documents explaining operation of any computer system containing any of the above information.

ATTACHMENT C

A F F I D A V I T

GERD R. HATTWIG, being first duly sworn on oath, states:

1. I am a Special Agent with the United States Environmental Protection Agency (hereafter "EPA") Office of Criminal Investigations located in Seattle, Washington. In my current position, I am also a Special Deputy United States Marshal and am authorized to obtain and execute search warrants.

2. I am responsible for, among other things, conducting investigations of criminal violations of several environmental statutes, including the Federal Water Pollution Control Act (33 U.S.C. §§ 1251, et seq.), commonly referred to as the Clean Water Act (CWA), the Rivers and Harbors Act (33 U.S.C. §§ 403, 407, and 411), and the Resource Conservation and Recovery Act (hereafter, "RCRA"), 42 U.S.C. §§ 6901, et seq.

The CWA bans the discharge of any pollutant into a navigable water via a "point source" except in compliance with a previously obtained permit under the National Pollutant Discharge Elimination System (NPDES), 33 U.S.C. §§ 1311(a), 1319(c)(1), and 1342. "Pollutant" is broadly defined to include, inter alia, "sewage, garbage, chemical wastes, biological materials . . . and industrial . . . and agricultural waste discharged into water." 33 U.S.C. § 1362(6). A "point source" is also broadly defined as "any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, . . . from which pollutants are or may be

UNITED STATES ATTORNEY  
3600 Seafirst Fifth Avenue Plaza  
Seattle, WA 98104  
(206) 442-7970

SEARCH WARRANT AFFIDAVIT  
OF HATTWIG - 1  
(202222)

1 discharged." 33 U.S.C. § 1362(14). NPDES permits are available  
2 from the State of Washington Department of Ecology ("Ecology") and  
3 from EPA, upon application and acceptance of conditions usually  
4 required in such permits (such as effluent limits). Section 402  
5 of the CWA, 33 U.S.C. § 1342, establishes the NPDES permit system  
6 as a basic mechanism for enforcing the effluent and water quality  
7 standards applicable to direct discharges into navigable waters.  
8 The CWA provides for criminal penalties for willfully or  
9 negligently: (a) discharging pollutants into navigable waters  
10 without an NPDES permit for the particular discharge, and  
11 (b) violating conditions contained in any NPDES permit. 33 U.S.C.  
12 § 1319(c)(1).

13 The Rivers and Harbors Act makes criminal the discharge  
14 of "refuse" into navigable waters without a permit. 33 U.S.C.  
15 §§ 403, 407, and 411. Courts interpreting the term "refuse" have  
16 broadly defined it to include virtually all wastes.

17 RCRA was enacted in 1976 as a Congressional response to the  
18 growing number of hazardous waste sites resulting from unregulated  
19 waste disposal practices. 5 U.S. Code Cong. & Admin. News 6441  
20 (1976). The objectives of this statute include, inter alia,  
21 protection of human health and the environment through stringent  
22 regulation of the treatment, storage, transportation, and disposal  
23 of hazardous waste. 42 U.S.C. § 6902. The Act accomplishes its  
24 objectives by creating a "cradle-to-grave" regulatory scheme to  
25 govern and track hazardous wastes from the point of generation  
26 until their final disposal.

UNITED STATES ATTORNEY  
3600 Seafirst Fifth Avenue Plaza  
Seattle, WA 98104  
(206) 442-7970

SEARCH WARRANT AFFIDAVIT  
OF HATTWIG - 2  
1002201

1 First, the statute requires the EPA to identify and list  
2 solid wastes which meet the statutory definition of a hazardous  
3 waste.<sup>1/</sup> These identified and listed hazardous wastes are then  
4 further subject to regulations established by the EPA regarding  
5 the handling of such wastes. 42 U.S.C. § 6921. The majority of  
6 these regulations, including those listing and identifying  
7 hazardous wastes, were promulgated on May 19, 1980, and became  
8 effective on November 19, 1980. See generally 40 C.F.R. Part 261.

9 Once a waste is listed as hazardous, it is subject to  
10 regulation unless the generating facility petitions for and  
11 obtains an exclusion from regulation by demonstrating that the

12 1/ The statute defines "hazardous waste" as:

13 [A] solid waste, or combination of solid  
14 wastes, which because of its quantity,  
15 concentration, or physical, chemical or  
infectious characteristics may --

16 (A) cause, or significantly contribute  
17 to an increase in mortality or an  
increase in serious irreversible, or  
incapacitating reversible illness; or

18 (B) pose a substantial present or  
19 potential hazard to human health or the  
20 environment when improperly treated,  
stored, transported, or disposed of, or  
otherwise managed.

21 The term "solid waste" is defined in § 6903(27) as:

22 [A]ny garbage, refuse, sludge from a waste  
23 treatment plant . . . and other discarded  
24 material including solid, liquid, semisolid or  
25 contained gaseous material resulting from  
26 industrial, commercial, mining and  
agricultural activities . . . .

1 waste does not meet any of the hazardous criteria under which it  
2 was listed. See 40 C.F.R. § 261.3(c) and 260.22. Individual  
3 waste generators must identify their own wastes as hazardous, see  
4 42 U.S.C. § 6922 and 40 C.F.R. § 262.11, and must then arrange  
5 for the proper transportation, treatment, storage, and disposal  
6 of the waste in accordance with the statute and applicable  
7 regulations. 42 U.S.C. § 6922 and 40 C.F.R. Part 262.  
8 Specifically, arrangement must be made to treat, store, or  
9 dispose of the wastes at a facility permitted, pursuant to RCRA,  
10 to handle such wastes.

11 The treatment, storage, or disposal of hazardous wastes may  
12 take place only at a facility properly issued a RCRA permit, 42  
13 U.S.C. §§ 6925 and 6926, whether the facility is owned and  
14 operated by the waste generator or an unrelated party. These  
15 permits impose regulatory conditions specifically tailored to the  
16 type of activity at a particular facility and the facility may  
17 only handle those wastes and perform those activities covered by  
18 its permit. See 40 C.F.R. Part 264.

19 Recognizing that the process of issuing RCRA permits would  
20 take a significant period of time, Congress created a mechanism  
21 whereby existing hazardous waste treatment, storage, and disposal  
22 facilities could remain in operation from the effective date of  
23 the regulations until the issuance of a permit. Thus, a facility  
24 was considered to have "interim status", and treated as having a  
25 permit, if it met the following conditions: (1) it was in  
26 existence on November 19, 1980; (2) the appropriate notice of

1 hazardous waste activity was given to EPA; and (3) an application  
2 for a permit was made by November 19, 1980,<sup>2/</sup> with modification  
3 later as appropriate based upon changed circumstances.<sup>3/</sup>  
4 42 U.S.C. § 6925(e). However, the permit status is strictly  
5 limited to only those activities described in the permit  
6 application, or subsequent modified application. 40 C.F.R.  
7 § 270.71. Thus, where a permit application maintains that the  
8 facility stores hazardous waste only, disposal is not permitted.  
9 Nor is the storage or disposal of hazardous waste in a manner  
10 other than that specified in the application allowed. 40 C.F.R.  
11 § 270.71. A facility may only treat, store, or dispose of those  
12 wastes specifically listed and described in the permit  
13 application. Interim status facilities are also subject to  
14 regulations similar to those which will later be applied to the  
15 facility through a final RCRA permit. See 40 C.F.R. Part 265.

16 Section 6926 of RCRA provides a mechanism whereby a State  
17 may seek authorization from the Administrator of EPA to  
18 administer a hazardous waste program within the State. The

19 <sup>2/</sup> November 19, 1980, is the effective date for EPA's  
20 hazardous waste regulatory program.

21 <sup>3/</sup> A land disposal facility qualifying for interim status  
22 prior to November 9, 1984, would maintain this status after  
23 November 9, 1985, only if the owner or operator of the facility  
24 applied for final permit determination prior to that date and  
25 certified that the facility was in compliance with all  
26 applicable groundwater monitoring and financial responsibility  
requirements. 42 U.S.C. § 6925(e). If these requirements were  
not met, the facility would be considered to be operating  
without a permit.

SEARCH WARRANT AFFIDAVIT  
OF HATTWIG - 5  
(8822C)

UNITED STATES ATTORNEY  
3600 Seafirst Fifth Avenue Plaza  
Seattle, WA 98104  
(206) 442-7970

1 Administrator of EPA will authorize such a program if the State  
2 demonstrates, among other things, that its proposed program is  
3 equivalent to the federal program. Once a State receives  
4 authorization pursuant to section 6926, then the State  
5 regulations apply, in lieu of the Federal regulations, for  
6 purposes of determining whether the material is in fact a  
7 hazardous waste and therefore is subject to regulation. The  
8 State of Washington received authorization from EPA to carry out  
9 a hazardous waste program on August 2, 1983.

10 The criminal enforcement provisions of RCRA provide, inter  
11 alia, at 42 U.S.C. § 6928(d)(1) (as amended by the Hazardous and  
12 Solid Waste Amendments of 1984 - P.L. 98-616, 98 Stat. 3661) that:

13 any person who --

14 (1) knowingly transports or causes to be  
15 transported any hazardous waste  
16 identified or listed under this  
17 subchapter to a facility which does not  
18 have a permit under section 6925 of this  
19 title (or section 6926) of this title in  
20 case of a State program) . . . .

21 (2) knowingly treats, stores, or  
22 disposes of any hazardous waste . . .  
23 without having obtained a permit . . .

24 shall be guilty of an offense.

25 3. Since September 1986, I have been conducting an  
26 investigation of unpermitted discharges of wastes into the  
environment, both land and water, at and near the south end of  
Lake Union in Seattle, Washington, from a ready mix concrete  
plant operated by Pioneer Construction Materials Company,  
identified in the telephone directory and Dun and Bradstreet

UNITED STATES ATTORNEY  
3600 Seafirst Fifth Avenue Plaza  
Seattle, WA 98104  
(206) 442-7970

SEARCH WARRANT AFFIDAVIT  
OF HATTWIG - 6  
1002201

1 reports as a division of Riedel International, Inc. This plant  
2 is located at 901 Fairview Avenue North, Seattle, Washington.  
3 From my personal observations, I know this facility consists of a  
4 number of gray tall tower-like structures commonly associated  
5 with cement plants, a water tank tower, a truck wash area  
6 (consisting of concrete and earth) and wash water settling ponds,  
7 and a two-story office building facing Fairview Avenue North.  
8 Part of this building is also used as a warehouse and retail  
9 sales facility. A second smaller two-story building is located  
10 in the middle of the yard next to the truck wash area. The plant  
11 is bordered on the south side by the large two-story office  
12 building, which also forms part of the western border along with  
13 the western entrance gate and a fence which ends to the north at  
14 the water's edge of Lake Union. Lake Union forms the rest of the  
15 western, northern, and eastern border of this plant. A fence to  
16 the edge of Lake Union forms the rest of the eastern boundary and  
17 a truck gate and a section of chain link fence on the south side  
18 of the plant completes the boundary. The entrances to the plant  
19 and the plant itself are clearly marked with signs identifying it  
20 as Pioneer Construction Materials Company.

21 4. I have examined the files of the EPA in Seattle  
22 regarding the Pioneer Construction Materials Company, Riedel  
23 International, Inc., and Glacier Sand and Gravel Company, and  
24 have consulted with the Ecology office for the Seattle area.  
25 According to the files of both agencies, there are no records of  
26 any NPDES permit or permit application for this facility on

SEARCH WARRANT AFFIDAVIT  
OF HATTWIG - 7  
(8822C)

UNITED STATES ATTORNEY  
3600 Seafirst Fifth Avenue Plaza  
Seattle, WA 98104  
(206) 442-7970



1 file. There are also no RCRA permits on file for the disposal of  
2 hazardous wastes at the Pioneer facility on Lake Union.

3 5. On October 6, 1986, I reviewed files provided by the  
4 METRO agency regarding Pioneer Construction Materials Company and  
5 learned that Waste Discharge Permit Number 7181 was issued to  
6 Lone Star Industries, Inc., on June 2, 1981, for their plant  
7 located at 901 Fairview Avenue North, Seattle, Washington, and  
8 transferred in April of 1984 to Pioneer Construction Materials  
9 Company. The expiration date for this permit was June 2, 1986,  
10 and the permit allowed this plant to discharge up to 4000 gallons  
11 of industrial waste water and 1500 gallons of sanitary waste  
12 water per day into the municipal sanitary sewer system.

13 On April 4, 1986, Mr. Bruce R. Burrow, an inspector  
14 employed by METRO, conducted an inspection of the Pioneer plant  
15 on Fairview Avenue North as part of the renewal process for Waste  
16 Permit Number 7181. During this inspection, Burrow was  
17 accompanied by the plant manager, John White, who told Burrow  
18 that the Fairview plant is not currently discharging to the Metro  
19 system because the pipes are inoperative, having been broken when  
20 a barge ran into the pier in mid-March, 1986. According to  
21 Mr. White, the piping would be fixed as soon as possible. White  
22 also said that in the meantime, if ponds became too full, they  
23 will be drawn down into trucks and taken to the East Marginal Way  
24 plant for use as make-up water. Additionally, Mr. Burrow noticed  
25 during his inspection that liquid waste water was escaping from  
26 an opening at the northwest end of the second final settling tank

SEARCH WARRANT AFFIDAVIT  
OF HATTWIG - 8  
(8822C)

UNITED STATES ATTORNEY  
3600 Seafirst Fifth Avenue Plaza  
Seattle, WA 98104  
(206) 442-7970

1 into Lake Union. Mr. Burrow said he pointed out this discharge to  
2 Mr. White and requested that White close the breach in the wall of  
3 the tank as soon as possible. Mr. Burrow stated he told Mr. White  
4 that the Washington Department of Ecology would issue a citation  
5 for this type of discharge because it is illegal. Mr. White  
6 indicated to Mr. Burrow that he would stop the discharge and would  
7 take care of this problem. The METRO file also contains a letter  
8 dated May 27, 1986, from Pioneer Construction Company signed by  
9 Ronald E. Summers, Operations Manager. This letter is addressed  
10 to Mr. Burrow and states that Pioneer plans to close the Fairview  
11 plant in mid-November 1986; that there have been no discharges to  
12 the Metro system for two years and that Pioneer does not feel it  
13 needs to discharge into the Metro system in the next six months.  
14 The Summers letter also acknowledges receipt of a draft copy of  
15 the new METRO permit but indicates that Pioneer does not want to  
16 renew the permit at the time of the letter.

17 6. Since September 11, 1986, I have conducted surveillance  
18 of the Pioneer plant on Lake Union. On numerous occasions, cement  
19 waste liquid discharges from a number of point sources have been  
20 observed by me and other law enforcement officers. I was able to  
21 photograph, videotape and sample some of these discharges. For  
22 example, on September 15, 1986, I sampled a liquid discharge  
23 flowing from the northeast corner of the cement waste water  
24 settling tank. This discharge into Lake Union was gray and  
25 flowing in a stream about one foot wide and a half a foot high  
26 from a v-shaped cut in the cement wall of the settling tank. I

SEARCH WARRANT AFFIDAVIT  
OF HATTWIG - 9  
(8822C)

UNITED STATES ATTORNEY  
3600 Seafirst Fifth Avenue Plaza  
Seattle, WA 98104  
(206) 442-7970

1 field tested this liquid with a portable pH meter. The pH was  
2 12.3. The sample was then transmitted to the EPA Laboratory at  
3 Manchester, Washington for further tests. This high pH is  
4 commonly associated with alkaline concrete plant discharges, which  
5 is the reason that effluent guidelines have been promulgated by  
6 EPA for concrete plants. A liquid with a pH of greater than 12.5  
7 is a hazardous waste as defined in 40 C.F.R. § 261.22  
8 (characteristic of corrosivity). Wastes with high alkalinities  
9 can cause skin burns and kill various forms of aquatic life.  
10 Plants complying with the CWA commonly reuse wash waters to make  
11 new batches of concrete or use acids to neutralize the alkalinity  
12 of waste waters to a pH of no higher than 9 before being permitted  
13 to discharge to surface waters.

14 Other special agents and I have also observed a brownish  
15 liquid discharge into the lake from behind a square metal plate  
16 located about halfway up the eastern wall of the cement waste  
17 water tank. This plate is about one foot square and is attached  
18 to the cement wall of the cement waste water tank by a single bolt  
19 through its center. From my investigation of the Pioneer  
20 Construction Materials plant located at 5975 East Marginal Way  
21 South, Seattle, Washington, and the execution of Federal Search  
22 Warrant #86-231M-01 on September 3, 1986, at that plant I know  
23 that a similar metal plate was used at the East Marginal Way plant  
24 as an overflow drain on the cement waste water tank. The East  
25 Marginal Way metal plate was fitted loosely, about an inch  
26

UNITED STATES ATTORNEY

3600 Seafirst Fifth Avenue Plaza  
Seattle, WA 98104  
(206) 442-7970

SEARCH WARRANT AFFIDAVIT  
OF HATTWIG - 10  
(8822C)

1 or more out from the cement wall, over a hole which had been  
2 jackhammered through the wall. The hole allowed the waste liquid  
3 to flow out of the settling tank whenever the liquid rose to the  
4 level of the hole and plate.

5 7. Since records of EPA and Ecology show no permit  
6 authorization for disposal of these highly corrosive wastes in  
7 the manner done, i.e., by discharging them into the soil and  
8 water near or on the shoreline of Lake Union I have reason to  
9 believe that illegal disposal of pollutants and perhaps hazardous  
10 wastes have occurred in violation of the CWA, the River and  
11 Harbors Act, and perhaps RCRA, when portions of these materials  
12 were allowed to enter the waters of Lake Union.

13 8. Based on my experience with the IRS and EPA, and my  
14 familiarity with industrial facilities gained through discussions  
15 with other employees of the EPA and Ecology, it is likely that  
16 Pioneer (including Glacier), and its employees maintain business  
17 records for the purpose of billing and preparing business tax  
18 returns. Usually, such records are kept in payment records,  
19 general ledgers, invoices and billing statements, and related  
20 computer files. These records will show the frequency of use of  
21 the trucks transporting concrete. In addition, the company's  
22 records should indicate what raw materials were purchased for use.

23 In my experience, facilities that use and handle potentially  
24 hazardous chemical materials of the sort used by Pioneer  
25 generally have documents containing safety information describing  
26 the nature and hazards of the chemicals they use, and handling

1 precautions for employee safety. Washington State law now  
2 requires such information to be maintained and provided to  
3 employees.

4 Lastly, the company must maintain employee records for tax  
5 and other purposes.

6 GERD R. HATTWIG  
7 Special Agent  
8 United States Environmental  
9 Protection Agency

10 SWORN TO before me this \_\_\_\_\_ day of \_\_\_\_\_, 1986.

11 UNITED STATES MAGISTRATE

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
SEARCH WARRANT AFFIDAVIT  
OF HATTWIG - 12  
(8822C)

UNITED STATES ATTORNEY  
3600 Seafirst Fifth Avenue Plaza  
Seattle, WA 98104  
(206) 442-7970

26-JUN-86  
16:04:10

EPA Region X Lab Management System  
Sample/Project Analysis Results

Project: CUE-013A

86-X-4-4

Officer: GZH

Sample No: 86 250371 Begin Sample Date: 86/06/13 20:15

Source: Water (General)

Depth:

Laboratory: RX

Description: H/A 2

Gen Inorg/Phys-Speci Parameter	Water-Total Result Units
LAB PH	13.04 SU

Solids - Specified Parameter	Water-Total Result Units
RESIDUE TOTAL	6493 MG/L
RESIDUE TOT-NFLT	3745 MG/L
RESIDUE DISS-100	2910 MG/L

*Handwritten signature*

(Sample Complete)

20-JUN-87  
16:04:10

EPA Region X Lab Management System  
Sample/Project Analysis Results

Project: CUP-013A

UG-X-4-4

Officer: GZH

Sample No: PR 250772 Begin Sample Date: 66/06/13 20:15

Source: Water (General)

Depth:

Laboratory: FA

Description: N/A J

Gen Inorg/Phys-Spec	Water-Total
Parameter	Result Units
Lab	12.96 SU

Solids - Specified	Water-Total
Parameter	Result Units
RESIDUE TOTAL	6215 MG/L
RESIDUE TOT-NFLT	3130 MG/L
RESIDUE DISS-180	3380 % MG/L

(Sample Complete)

26-JUN-86  
16:04:10

EPA Region X Lab Management System  
Sample/Project Analysis Results

Project: CDE-013A

86-X-4-4

Officer: GZH

Sample No: 86 250373 Begin Sample Date: 86/06/13 20:15 Source: Water (General)

Depth: 02

Laboratory: RX

Description: N/A 4

Gen Inorg/Phys-Spec	Water-Total
Parameter	Result Units
LAB PH	13.04 SU

Solids - Specified	Water-Total
Parameter	Result Units
RESIDUE TOTAL	6617 MG/L
RESIDUE TOT-NFLT	3530 MG/L
RESIDUE U155-180	3085 MG/L

11/1/86

(Sample Complete)



07-DCT-86  
07:33:42

EPA Region X Lab Management System  
Sample/Project Analysis Results

Page

Project: CCE-0130

86-X-474

Officer: GJM

Account:

Sample No: 86 380010

Begin Sample Date: 86/09/15

Source: Water (General)

Depth:

UA Code

Laboratory: RX

Description: PIONEER-FAIRVIEW DISCHARGE NORTH TANK

Gen Inorg/Phys-Spec		Water-Total	
Parameter		Result	Units
Cond@25C	Meter	8056	umho/cm
pH LAB	Meter	13.02	Std Units
Alkalinity	Total	1747	mg/l
Turbidity	Meter	52	NTU

Solids - Specified		Water-Total	
Parameter		Result	Units
Solids	Total	3634	mg/l
Solids	T-Suspen	274	mg/l
Solids	T-Dissol	3132	mg/l

(Sample Complete)

SEARCH WARRANT ON WRITTEN AFFIDAVIT

United States District Court		DISTRICT WESTERN DISTRICT OF WASHINGTON
UNITED STATES OF AMERICA v. THE PIONEER CONSTRUCTION MATERIALS COMPANY, A DIVISION OF RIEDEL INTERNATIONAL, INC.	DOCKET NO.	MAGISTRATE'S CASE NO. 86-231M-01
		TO: Gerd Hattwig, Special Agent U.S. Environmental Protection Agency, and Special Deputy United States Marshal (or any other authorized agent).

Affidavit(s) having been made before me by the below-named affiant that he/she has reason to believe that (on the person of) (on the premises known as) The Duwamish ready-mix concrete plant of the Pioneer Construction Materials Company, a division of Riedel International, Inc., a multi-acre industrial facility located at 5975 East Marginal Way South, Seattle, Washington, bordered on the east by East Marginal Way - First Avenue South, on the south by a chain link fence and the shoreline of Slip #2 (an inlet which appears on navigational charts of the Duwamish River), on the west by the Duwamish River shoreline, and on the north by a large building with the address 5931 E. Marginal Way South, which building is occupied by another company, the Norwest Gypsum Company. The Pioneer facility is clearly identified as such by the name Pioneer Construction Materials Company in large red letters on a two-story tan office building facing East Marginal Way South, with the name Glacier Sand and Gravel Co. in smaller green letters also appearing below the name of Pioneer. The building is further marked by the street address 5975 and the Pioneer Company's logo, a large red "P" on a green circle depicting a globe. A large metal building is also located on the premises, forming part of the eastern and southern border of the plant.

The Pioneer Construction Materials Co. plant contains a second two-story office-type building at the south west corner of the facility, a number of large tower-like structures used in concrete production, a water tower, and some large open waste water storage lagoons or trenches adjacent to a bulkhead on the southside. Further more there are a number of conveyor belts and piping connecting various structures. On and in this facility in the Western District of Washington, there is now certain property, to which the affiant and other employees of the United States

(See Attachment A)

and as I am satisfied that there is probable cause to believe that the property so described is being concealed on the person or premises above-described and the grounds for application for issuance of the search warrant exist as stated in the supporting affidavit(s).

YOU ARE HEREBY COMMANDED to search on or before September 13, 1986 (not to exceed 10 days) the person or place named above for the property specified, serving this warrant and making the search (in the daytime — 6:00 A.M. to 10:00 P.M.) (at any time in the day or night) and if the property be found there to seize it, leaving a copy of this warrant and receipt for the property taken, and prepare a written inventory of the property seized and promptly return this warrant to a U.S. Magistrate as required by law. U.S. Judge or Magistrate

ANT HATTWIG, Special & Special Deputy Marshal	SIGNATURE OF JUDGE ** OR US MAGISTRATE JOHN L. WEINBERG	DATE/TIME ISSUED
to be authorized "at any time in the day or night" pursuant to Federal Rules of Criminal Procedure Rule 41(c), show reasonable Dr. Judge or Judge of a State Court of Record.		

ATTACHMENT A

Environmental Protection Agency seek access for the purpose of (1) inspecting and photographing facilities, devices and materials, (2) sampling raw materials and process and waste waters, (3) seizure of documentary evidence, these items of property further described in the attached Property List, which are evidence of violations of the Federal Water Pollution Control Act, Title 33, United States Code, Section 1251, et seq., the Rivers and Harbors Act, Title 33, United States Code, Sections 403, 407 and 411, and the Resource Conservation and Recovery Act, 42 U.S.C. Section 6928, et seq.

### Property List

1. For sampling and inspection purposes: all raw material and waste and waste water storage, treatment, and disposal areas, including those containing cement and concrete raw materials, concrete production final products, concrete production byproducts and wastes (including cooling water), concrete production equipment cleaning solutions (unused and waste); all concrete production and related waste disposal equipment and devices, including tanks, vats, lagoons, manholes, pipes, drains, trenches, conduits, valves and waste material land application areas and equipment, and affiliated structures (buildings) housing the same; all general equipment used in concrete production, including returning (mostly) empty Pioneer and Glacier Sand and Gravel trucks present on the facility during the time of execution of this warrant.

2. For sampling and inspection purposes: soil, water, and waste liquids, and other natural or man-made materials in the vicinity of the areas and devices referred to in paragraph one above.

3. For photographing purposes: all structures, buildings, offices, piping, equipment, and other areas of the Pioneer Duwamish plant.

Books, records, and files (of all sorts, including computer disks, other storage media, or printouts) indicating the following, described in the succeeding paragraphs of this list:

4. Documents indicating the name, addresses, and telephone numbers of all company employees and all documents which contain job descriptions or other material defining the nature and scope of each employee's responsibilities, and records which show time and attendance of said employees, including time cards, or other such records reflecting employment history, such records to include those of former employees no longer currently employed by the company.

5. All records for cleaning operations involved in concrete production and sale.

6. All documents indicating the chemical constituents and physical properties of concrete production raw materials, cleaners, and related waste, including but not limited to animal and plant studies, laboratory analyses, formulas, recipe books, production labels, chemical indexes and manuals, manufacturers' descriptive literature, safety literature and employee precautions.

7. Any documents, correspondence, notes, or memoranda concerning communications by or between (1) officials and employees of Riedel International, Inc., and its division, Pioneer Construction Materials (and Glacier Sand and Gravel) or (2) these company officials and employees and federal, state and local environmental, health, and industrial waste water treatment agencies which in any way relate to concrete production wastes, concrete production cleaning materials and the disposal of these wastes.

8. Documents and files demonstrating knowledge on the part of corporate officers and employees of the nature of the materials handled at Pioneer Construction Materials Co. and/or of laws regulating their disposal and use.

9. Documents, correspondence, notes, and memoranda concerning citizen complaints to Pioneer Construction Materials Co., about waste discharge.

10. Any documents relating to contracts with any transporter, treater, or disposer for the handling of concrete production waste materials.

11. Maps, sketches or other schematics of plumbing, trenches, production lines, discharge systems and pipes or cooling water systems, and records of modifications, construction or renovation of plumbing or piping including contracts, bills, payments and letters to or from contractors.

12. Records, flow meter charts, log books, and discharge monitoring notes, laboratory analyses and notebooks, and other documents concerning quantities, rates, and constituents of waste water discharge (both directly to the Duwamish River and to the sanitary sewer).

13. Records, logs, tallies or other documents reflecting accumulation rates for wastes.

14. Records, logs, tally sheets or other documents concerning concrete production quantities.

15. Facility or driver concrete truck trip log sheets and other records of use and cleaning of cement and concrete trucks

owned and/or operated by Pioneer Construction Materials Co. and Glacier Sand and Gravel Co., operated out of the Pioneer Duwamish facility.

16. Night watchman logs, records, or reports containing reference to waste water valve operation, waste discharge, equipment monitoring, and night crew employee attendance.

17. Documents reflecting the purchases, uses, and disposal of any acids at Pioneer Construction Materials Co.

18. Documents explaining operation of any computer system containing any of the above information.

A F F I D A V I T

GERD R. HATTWIG, being first duly sworn on oath, states:

1. I am a Special Agent with the United States Environmental Protection Agency (hereafter "EPA") Office of Criminal Investigations located in Seattle, Washington. In my current position, I am also a Special Deputy United States Marshal and am authorized to obtain and execute search warrants.

2. I am responsible for, among other things, conducting investigations of criminal violations of several environmental statutes, including the Federal Water Pollution Control Act (33 U.S.C. §§ 1251, et seq.), commonly referred to as the Clean Water Act (CWA), the Rivers and Harbors Act (33 U.S.C. §§ 403, 407, and 411), and the Resource Conservation and Recovery Act (hereafter, "RCRA"), 42 U.S.C. § 6901, et seq.

The CWA bans the discharge of any pollutant into a navigable water via a "point source" except in compliance with a previously obtained permit under the National Pollutant Discharge Elimination System (NPDES), 33 U.S.C. §§ 1311(a), 1319(c)(1), and 1342. "Pollutant" is broadly defined to include, inter alia, "sewage, garbage, chemical wastes, biological materials . . . and industrial . . . and agricultural waste discharged into water." 33 U.S.C. § 1362(6). A "point source" is also broadly defined as "any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, . . . from which pollutants are or may be

UNITED STATES ATTORNEY  
3600 Seafirst Fifth Avenue Plaza  
Seattle, WA 98104  
(206) 442-7970



1 discharged." 33 U.S.C. § 1362(14). NPDES permits are available  
2 from the State of Washington Department of Ecology (DOE) and from  
3 EPA, upon application and acceptance of conditions usually  
4 required in such permits (such as effluent limits). Section 402  
5 of the CWA, 33 U.S.C. § 1342, establishes the NPDES permit system  
6 as a basic mechanism for enforcing the effluent and water quality  
7 standards applicable to direct discharges into navigable waters.  
8 The CWA provides for criminal penalties for willfully or  
9 negligently: (a) discharging pollutants into navigable waters  
10 without an NPDES permit for the particular discharge, and  
11 (b) violating conditions contained in any NPDES permit. 33 U.S.C.  
12 § 1319(c)(1).

13 The Rivers and Harbors Act makes criminal the discharge  
14 of "refuse" into navigable waters without a permit. 33 U.S.C.  
15 §§ 403, 407, and 411. Courts interpreting the term "refuse" have  
16 broadly defined it to include virtually all wastes.

17 RCRA was enacted in 1976 as a Congressional response to the  
18 growing number of hazardous waste sites resulting from unregulated  
19 waste disposal practices. 5 U.S. Code Cong. & Admin. News 6441  
20 (1976). The objectives of this statute include, inter alia,  
21 protection of human health and the environment through stringent  
22 regulation of the treatment, storage, transportation, and disposal  
23 of hazardous waste. 42 U.S.C. § 6902. The Act accomplishes its  
24 objectives by creating a "cradle-to-grave" regulatory scheme to  
25 govern and track hazardous wastes from the point of generation  
26 until their final disposal.

UNITED STATES ATTORNEY  
3600 Seafirst Fifth Avenue Plaza  
Seattle, WA 98104  
(206) 442-7970

1 First, the statute requires the EPA to identify and list  
2 solid wastes which meet the statutory definition of a hazardous  
3 waste.<sup>1/</sup> These identified and listed hazardous wastes are then  
4 further subject to regulations established by the EPA regarding  
5 the handling of such wastes. 42 U.S.C. § 6921. The majority of  
6 these regulations, including those listing and identifying  
7 hazardous wastes, were promulgated on May 19, 1980, and became  
8 effective on November 19, 1980. See generally 40 C.F.R. Part 261.

9 Once a waste is listed as hazardous, it is subject to  
10 regulation unless the generating facility petitions for and  
11 obtains an exclusion from regulation by demonstrating that the  
12

---

13 1/ The statute defines "hazardous waste" as:

14 [A] solid waste, or combination of solid  
15 wastes, which because of its quantity,  
16 concentration, or physical, chemical or  
infectious characteristics may --

17 (A) cause, or significantly contribute  
18 to an increase in mortality or an  
increase in serious irreversible, or  
incapacitating reversible illness; or

19 (B) pose a substantial present or  
20 potential hazard to human health or the  
21 environment when improperly treated,  
stored, transported, or disposed of, or  
otherwise managed.

22 The term "solid waste" is defined in § 6903(27) as:

23 [A]ny garbage, refuse, sludge from a waste  
24 treatment plant . . . and other discarded  
25 material including solid, liquid, semisolid or  
26 contained gaseous material resulting from  
industrial, commercial, mining and  
agricultural activities . . . .

UNITED STATES ATTORNEY  
3600 Seafirst Fifth Avenue Plaza  
Seattle, WA 98104  
(206) 442-7970

1 waste does not meet any of the hazardous criteria under which it  
2 was listed. See 40 C.F.R. § 261.3(c) and 260.22. Individual  
3 waste generators must identify their own wastes as hazardous, see  
4 42 U.S.C. § 6922 and 40 C.F.R. § 262.11, and must then arrange  
5 for the proper transportation, treatment, storage, and disposal  
6 of the waste in accordance with the statute and applicable  
7 regulations. 42 U.S.C. § 6922 and 40 C.F.R. Part 262.

8 Specifically, arrangement must be made to treat, store, or  
9 dispose of the wastes at a facility permitted, pursuant to RCRA,  
10 to handle such wastes.

11 The treatment, storage, or disposal of hazardous wastes may  
12 take place only at a facility properly issued a RCRA permit, 42  
13 U.S.C. §§ 6925 and 6926, whether the facility is owned and  
14 operated by the waste generator or an unrelated party. These  
15 permits impose regulatory conditions specifically tailored to the  
16 type of activity at a particular facility and the facility may  
17 only handle those wastes and perform those activities covered by  
18 its permit. See 40 C.F.R. Part 264.

19 Recognizing that the process of issuing RCRA permits would  
20 take a significant period of time, Congress created a mechanism  
21 whereby existing hazardous waste treatment, storage, and disposal  
22 facilities could remain in operation from the effective date of  
23 the regulations until the issuance of a permit. Thus, a facility  
24 was considered to have "interim status", and treated as having a  
25 permit, if it met the following conditions: (1) it was in  
26 existence on November 19, 1980; (2) the appropriate notice of

UNITED STATES ATTORNEY  
3600 Seafirst Fifth Avenue Plaza  
Seattle, WA 98104  
(206) 442-7970

1 hazardous waste activity was given to EPA; and (3) an application  
2 for a permit was made by November 19, 1980,<sup>2/</sup> with modification  
3 later as appropriate based upon changed circumstances.<sup>3/</sup>  
4 42 U.S.C. § 6925(e). However, the permit status is strictly  
5 limited to only those activities described in the permit  
6 application, or subsequent modified application. 40 C.F.R.  
7 § 270.71. Thus, where a permit application maintains that the  
8 facility stores hazardous waste only, disposal is not permitted.  
9 Nor is the storage or disposal of hazardous waste in a manner  
10 other than that specified in the application allowed. 40 C.F.R.  
11 § 270.71. A facility may only treat, store, or dispose of those  
12 wastes specifically listed and described in the permit  
13 application. Interim status facilities are also subject to  
14 regulations similar to those which will later be applied to the  
15 facility through a final RCRA permit. See 40 C.F.R. Part 265.

16 Section 6926 of RCRA provides a mechanism whereby a State  
17 may seek authorization from the Administrator of EPA to  
18 administer a hazardous waste program within the State. The  
19

20 <sup>2/</sup> November 19, 1980, is the effective date for EPA's  
21 hazardous waste regulatory program.

22 <sup>3/</sup> A land disposal facility qualifying for interim status  
23 prior to November 9, 1984, would maintain this status after  
24 November 9, 1985, only if the owner or operator of the facility  
25 applied for final permit determination prior to that date and  
26 certified that the facility was in compliance with all  
applicable groundwater monitoring and financial responsibility  
requirements. 42 U.S.C. § 6925(e). If these requirements were  
not met, the facility would be considered to be operating  
without a permit.

UNITED STATES ATTORNEY  
3600 Seafirst Fifth Avenue Plaza  
Seattle, WA 98104  
(206) 442-7970

1 Administrator of EPA will authorize such a program if the State  
2 demonstrates, among other things, that its proposed program is  
3 equivalent to the federal program. Once a State receives  
4 authorization pursuant to section 6926, then the State  
5 regulations apply, in lieu of the Federal regulations, for  
6 purposes of determining whether the material is in fact a  
7 hazardous waste and therefore is subject to regulation. The  
8 State of Washington received authorization from EPA to carry out  
9 a hazardous waste program on August 2, 1983.

10 The criminal enforcement provisions of RCRA provide, inter  
11 alia, at 42 U.S.C. § 6928(d)(1) (as amended by the Hazardous and  
12 Solid Waste Amendments of 1984 - P.L. 98-616, 98 Stat. 3661) that:

13 any person who --

14 (1) knowingly transports or causes to be  
15 transported any hazardous waste  
16 identified or listed under this  
17 subchapter to a facility which does not  
18 have a permit under section 6925 of this  
19 title (or section 6926) of this title in  
20 case of a State program) . . . .

21 (2) knowingly treats, stores, or  
22 disposes of any hazardous waste . . .  
23 without having obtained a permit . . .

24 shall be guilty of an offense.

25 3. Since May 1986, I have been conducting an investigation  
26 of unpermitted discharges of wastes into the environment, both  
land and water, at and near Slip #2 of the Duwamish River,  
Seattle, Washington, from a ready mix concrete plant operated by  
Pioneer Construction Materials Company, identified in the  
telephone directory and Dun and Bradstreet reports as a division

UNITED STATES ATTORNEY  
3600 Seafirst Fifth Avenue Plaza  
Seattle, WA 98104  
(206) 442-7970

1 of Riedel International, Inc. This plant is located at 5975 East  
2 Marginal Way South in Seattle, Washington. From my personal  
3 observations I know the facility consists of a number of gray  
4 tall tower-like structures commonly associated with cement  
5 plants, a water tank tower, a truck wash area (consisting of  
6 concrete and earth), one 2-story office building next to the  
7 truck wash area and one 2-story office building facing East  
8 Marginal Way. This plant is also bordered on the west side by  
9 the waters of the Duwamish and bordered on the south side by the  
10 waters of the Duwamish in an inlet referred to on navigational  
11 charts as Slip #2.

12 The facility is labeled both Pioneer Construction  
13 Materials Company and Glacier Sand and Gravel Co. The telephone  
14 directory listing for Glacier Sand and Gravel says to call  
15 Pioneer. According to the receptionist at the Pioneer number,  
16 Pioneer "bought out" Glacier.

17 4. I have examined the files of the EPA in Seattle  
18 regarding the Pioneer Construction Materials Company, Riedel  
19 International, Inc., and Glacier Sand and Gravel Company, and  
20 have consulted with the Washington State Department of Ecology  
21 ("DOE") office for the Seattle area. According to the files of  
22 both agencies, there are no records of any NPDES permit or permit  
23 application for this facility on file. Nor are there any RCRA  
24 permits on file for the disposal of hazardous wastes at the  
25 Pioneer facility on Slip #2.

26

UNITED STATES ATTORNEY  
3600 Seafirst Fifth Avenue Plaza  
Seattle, WA 98104  
(206) 442-7970

1           5.    On May 1, 1986, Richard Koch, an Engineer with the DOE  
2 assigned to the DOE Northwest office, conducted an inspection at  
3 the Pioneer Duwamish plant. Koch personally observed (and  
4 photographed) the facilities. He learned that the facility  
5 premixes concrete from raw materials for shipment to construction  
6 sites. Wastes solids from mostly empty trucks returning from  
7 deliveries are placed in metal forms to solidify into "ecology  
8 blocks" (meaning of non-structural strength). The trucks are  
9 washed a truck wash area, with waste solids partially collected  
10 in a trench area. According to Koch's observations, the wash pad  
11 area allows waste water containing concrete wastes to escape from  
12 the facility, through various channels in the adjoining  
13 structures. Koch personally observed contaminated waste waters  
14 leaving the plant via surface runoff headed for the Duwamish at  
15 the time of his visit. Koch met with Plant Manager Ron Summers  
16 on May 1 and discussed with Summers the need for an NPDES permit  
17 for any discharges into the Duwamish. During conversations with  
18 Summers, Koch was told that the plant does not routinely  
19 discharge into the Duwamish and therefore does not need an NPDES  
20 permit. On May 2, 1986, Koch wrote to Summers and again informed  
21 him of the need for an NPDES permit for any discharges into the  
22 Duwamish. Along with the letter of May 2, 1986, Mr. Koch mailed  
23 an NPDES permit application and instructions to Summers.

24           6.    On May 12, 1986, Mr. Koch had a telephone conversation  
25 with Ron Summers, during which Summers stated he did not intend  
26

UNITED STATES ATTORNEY  
3600 Seafirst Fifth Avenue Plaza  
Seattle, WA 98104  
(206) 442-7970

1 to apply for an NPDES permit because there would be no further  
2 discharges from Pioneer into the Duwamish. Summers explained  
3 that temporary measures had been taken to eliminate any  
4 discharges into the Duwamish and, as part of new construction,  
5 the changes would be permanently incorporated for a long term  
6 solution.

7       7. Subsequent to May 12, 1986, numerous recreational users  
8 of the Duwamish (members of a boating class) and several EPA  
9 Special Agents have personally made observations, taken  
10 photographs and/or made video recordings of numerous unpermitted  
11 discharges by the Pioneer plant into the Duwamish. The latest  
12 such discharge was observed by your affiant on August 27, 1986.  
13 The discharges appear to be from a variety of locations at the  
14 facility, along the property line that adjoins Slip #2. For  
15 example, it appears that a pipe or tunnel is buried in a concrete  
16 wall that stands along the river inlet, with a discharge point  
17 right above an earthen embankment. The pipe has a loose fitting  
18 cover plate, which appears to be more for concealment purposes  
19 than for blockage, because on numerous occasions your affiant has  
20 seen a steady stream of concrete waste waters splashing off the  
21 plate and running down the concrete wall to the earthen  
22 embankment, then into the Duwamish. On each of these occasions,  
23 an obvious, distinct cloud in the river water occurs from the  
24 concrete chemicals. The wall and the earthen embankment are  
25 stained grey from the obviously consistent discharges.  
26

UNITED STATES ATTORNEY  
3600 Seafirst Fifth Avenue Plaza  
Seattle, WA 98104  
(206) 442-7970



1           These discharges occur in the late afternoon and early  
2 evening, during the hours when trucks return to the facility from  
3 the day's deliveries. The trucks I have observed regularly  
4 entering and leaving the facility are marked either Pioneer or  
5 Glacier Sand and Gravel Co. The truck wash area, as previously  
6 discussed, drains into trenches and concrete holding ponds which  
7 must either overflow or be purposely drained via pipes onto the  
8 embankment adjoining the Duwamish.

9           8. At various times samples of the Duwamish river waters  
10 have been taken from the location where discharges from Pioneer  
11 enter the waters of the Duwamish. For example, samples taken on  
12 June 13, 1986, and analyzed by the EPA Lab in Manchester,  
13 Washington, yielded the following results: all water samples  
14 taken that day were a hazardous waste as defined in 40 C.F.R.  
15 § 261.22 (characteristic of corrosivity) by being aqueous and  
16 having a pH greater than or equal to 12.5, as determined by a pH  
17 meter using either an EPA test method or an equivalent test  
18 method. This extreme alkalinity is a common byproduct of  
19 concrete chemical constituents, which is the reason that effluent  
20 guidelines have been promulgated by EPA for concrete plants. An  
21 alkalinity this high is sufficient to cause skin burns and  
22 certainly to kill various forms of aquatic life. EPA studies  
23 show plants complying with the law commonly recycle wash waters  
24 into new batches or use acids to neutralize alkalinity of waste  
25 waters.  
26

UNITED STATES ATTORNEY  
3600 Seafirst Fifth Avenue Plaza  
Seattle, WA 98104  
(206) 442-7970

1           9.     Since records of EPA and DOE show no permit  
2 authorization for disposal of these highly corrosive wastes in  
3 the manner done, i.e., by discharging them into the soil and  
4 water near or on the shoreline of the Duwamish (and none,  
5 obviously, would ever be granted), I have reason to believe that  
6 illegal disposals of hazardous wastes have occurred, in violation  
7 of RCRA, in addition to the obvious violations of the Clean Water  
8 Act and the River and Harbors Act, when portions of these  
9 materials were allowed to enter the ground.

10           10.    Based on my experience with the IRS and EPA, and my  
11 familiarity with industrial facilities gained through discussions  
12 with other employees of the EPA and DOE, it is likely that  
13 Pioneer (including Glacier), and its employees maintain business  
14 records for the purpose of billing and preparing business tax  
15 returns. Usually, such records are kept in payment records,  
16 general ledgers, invoices and billing statements, and related  
17 computer files. These records will show the frequency of use of  
18 the trucks transporting concrete. In addition, the company's  
19 records should indicate what raw materials were purchased for use.

20           In my experience, facilities that use and handle potentially  
21 hazardous chemical materials of the sort used by Pioneer  
22 generally have documents containing safety information describing  
23 the nature and hazards of the chemicals they use, and handling  
24 precautions for employee safety. Washington State law now  
25 requires such information to be maintained and provided to  
26 employees.

UNITED STATES ATTORNEY  
3600 Seafirst Fifth Avenue Plaza  
Seattle, WA 98104  
(206) 442-7970

